

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
SOFTWOOD LUMBER FROM CANADA

) Investigation Nos.:
) 701-TA-566 AND 731-TA-1342 (PRELIMINARY)

REVISED AND CORRECTED

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Place: Washington, D.C.
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UNITED STATES OF AMERICA
BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
SOFTWOOD LUMBER PRODUCTS FROM CANADA) 701-TA-566 AND
) 731-TA-1342
) (PRELIMINARY)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Friday, December 16, 2016

The meeting commenced pursuant to notice at 9:30
a.m., before the Investigative Staff of the United States
International Trade Commission, Elizabeth Haines,
Supervisory Investigator, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Staff:

4 Tyrell Burch, Legal Document Assistant

5 Nadiya Samon, Student Intern

6

7 Elizabeth Haines, Supervisory Investigator

8 Fred Ruggles, Investigator

9 John Benedetto, Economist

10 Charles Yost, Accountant/Auditor

11 Robin Turner, Attorney/Advisor

12 Renee Berry, Industry Analyst

13

14

15

16

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22

23

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1 APPEARANCES:

2 OPENING REMARKS:

3 Petitioner (Andrew Kentz, Picard Kentz & Rowe LLP)

4 Respondents (Eric S. Parnes, Hughes Hubbard & Reed LLP)

5 In Support of the Imposition of Antidumping and

6 Countervailing Duty Orders:

7 Picard Kentz & Rowe LLP

8 Washington, DC

9 on behalf of

10 Petitioner

11 Steve Swanson, President and Chief Executive Officer,

12 Swanson Group

13 Andrew Miller, President and Chief Executive Officer,

14 Stimson Lumber Company

15 Steve Banahan, SPF Sales Manager, Pleasant River Lumber

16 Company, Inc.

17 Caroline Dausat, Owner, Rex Lumber Co.

18 Blake Sullivan, Forest Landowner, Principal, Sullivan

19 Forestry Consultants, Inc.

20 Chuck Roady, Vice President and General Manager, F.H.

21 Soltze Land & Lumber Company

22 Susan B. Hester, Ph.D., Consultant, Moongate

23 Associates, Inc.

24 Deanna Tanner Okun, Consultant, Adduci, Mastriani &

25 Schaumberg LLP

1 Andrew W. Kentz and David A. Yocis - Of Counsel

2

3 In Opposition to the Imposition of Antidumping and
4 Countervailing Duty Orders:

5 Hughes Hubbard & Reed LLP

6 Washington, DC

7 on behalf of

8 Government of Canada

9 Colin Bird, Minister-Counsellor, Trade and Economic
10 Policy, Embassy of Canada

11 James P. Dougan, Vice President, Economic Consulting
12 Services, LLC

13 Kivanc Kirgiz, Vice President, Cornerstone Research

14 Cara Groden, Consultant, Economic Consulting Services,
15 LLC

16 Matthew R. Nicely and Eric S. Parnes - Of Counsel

17

18 Mowry & Grimson, PLLC

19 Washington, DC

20 on behalf of

21 National Association of Home Builders ("NAHB")

22 Barry Rutenberg, Chairman, Arthur Rutenberg Homes

23 Rich Millman, President, Millman Lumber Company

24 Jeffrey S. Grimson and Kristin H. Mowry - Of Counsel

25

1 Steptoe & Johnson

2 Washington, DC

3 on behalf of

4 British Columbia Lumber Trade Council ("BCLTC")

5 Mark A. Moran and Matthew A. Frumin - Of Counsel

6

7 Cassidy Levy Kent (USA) LLP

8 Washington, DC

9 on behalf of

10 Interfor Corporation and Western Forest Products Inc.

11 Myles S. Getlan - Of Counsel

12

13 Baker & Hosteller LLP

14 Washington, DC

15 on behalf of

16 Ontario Forest Industries Association ("OFIA")

17 Conseil de l'Industrie forestiere du Quebec ("CFIQ")

18 Resolute Forest Products Inc.

19 Elliot J. Feldman, John Burke, Michael Snarr - Of

20 Counsel

21

22 Rebuttal/Closing Remarks:

23 Petitioner (David A. Yocis, Picard Kentz & Rowe LLP)

24 Respondents (Matthew R. Nicely, Hughes Hubbard & Reed LLP)

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P R O C E E D I N G S

(9:32 a.m.)

1
2
3 MS. HAINES: Good morning. Thank you for coming
4 on this very, very cold day. Welcome to the U.S.
5 International Trade Commission's conference in connection
6 with the preliminary phase of Anti-dumping Countervailing
7 Duty Investigation Number 701-TA-566 and 731-TA-1342
8 concerning softwood lumber products from Canada. My name is
9 Elizabeth Haines. I'm the Supervisory Investigator in the
10 office of investigations and I will be presiding at this
11 conference.

12 Among those present from the Commission Staff on
13 my right Fred Ruggles the Investigator, Robin Turner the
14 Attorney, John Benedetto the Economist, Renee Berry the
15 Industry Analyst and Charles Yost the Accountant. I
16 understand that parties are aware of the time allocations.
17 I would remind speakers not to refer in your remarks to
18 business proprietary information and to speak directly into
19 the microphones.

20 We also ask that you state your name and
21 affiliation for the record before beginning your
22 presentation or answering questions for the benefit of the
23 court reporter. All witnesses must be sworn in before
24 presenting testimony. I understand all parties are aware of
25 the time allocations and any questions regarding the time

1 allocations should be addressed to the secretary. Are there
2 any questions? Hearing none, we will proceed with the
3 opening statements. Mr. Kent?

4 OPENING STATEMENT BY ANDREW KENTZ

5 MR. KENTZ: Good morning and thank you for the
6 opportunity to be here today. My name is Andrew Kentz with
7 Picard, Kentz and Rowe and I am here on behalf of the
8 petitioner. I see many family faces so you are all well
9 aware of the long history involving softwood lumber from
10 Canada. This is the 5th round of the Lumbar dispute and
11 each time we are here because unfairly-traded Canadian
12 imports continue to harm the domestic industry, our mills,
13 our workers, our forest land owners and our communities.

14 Ten years ago the last trade case was resolved
15 through the Softwood Lumber Agreement or SLA which expired
16 in October of 2015. The SLA provided a one year standstill
17 period in which the U.S. Industry agreed not to file
18 petitions for AD or CD relief. Despite our best efforts, we
19 cannot come to a new agreement with Canada by the end of the
20 standstill period in October 2016 and so here we are again.

21

22 The U.S. Industry would still prefer to negotiate
23 an agreement though we have had no choice but to move
24 forward with these trade cases. That is because over the
25 period of the investigation and especially since the SLA

1 expired, Canadian Imports and market share have increased
2 substantially. In the first nine months of 2016, the volume
3 of Canadian Imports increased 30 percent when compared to
4 the same period in 2015 from 9.6 billion board feet to 12.5
5 billion board feet.

6 Following the expiration of the SLA, Canada's
7 U.S. market shares similarly surged from 29.5 percent in the
8 third quarter of 2015 to 33 percent in the 4th quarter of
9 the same year and to almost 34 percent so far in 2016. In
10 other words, in the span of a year, Canada has taken an
11 additional 4.5 percent of U.S. Market share.

12 To put these numbers in perspective, one percent
13 of U.S. market share is enough lumbar to build 22,550 new
14 homes. Further, 1% loss of U.S. Market share is the
15 equivalent of a closure of 2 significantly sized lumber
16 mills. Canada's gain in market share comes at the direct
17 expense of U.S. Producers. Despite increased demand since
18 the housing crash, lumber prices have been trending
19 downward since 2013. The random lengths composite price,
20 which serves as a benchmark for various North American
21 Species, peaked at 451 dollars in April of 2013 and fell
22 nearly 35 percent to a low of less than 300 dollars in
23 September of 2015. Prices today remain at levels well below
24 those in 2013 and 2014.

25 Just as important, we are here today because

1 Canada presents a longstanding structural problem to the
2 U.S. Softwood Lumber Industry. The Canadian Governments own
3 the vast majority of the timber supply. To put this into
4 perspective, the Canadian Government owns 90 percent of
5 harvested timber while 85 percent of U.S. harvested timber
6 is privately owned. The Canadian Government uses its
7 ownership of timber to promote the growth and stability of
8 its softwood lumber industry regardless of fair market
9 principles.

10 Further, the strong orientation of Canadian
11 Producers toward exports, primarily the United States means
12 that the U.S. Industry bears the major share of the cost of
13 Canada's unfairly subsidized timber system. The
14 profitability of U.S. Producers has dropped significantly
15 over the period of investigation and the industry has
16 experienced overall declines in key trade and financial
17 indicators including lost sales and lost revenues and mill
18 closures.

19 In short, Canadian Imports have substantially
20 impeded the Domestic Industry's recovery from the
21 devastating collapse in the U.S. Housing Industry during the
22 Great Recession. You will hear from those who have been
23 injured by Canadian Imports and they will speak to the harm
24 caused by American Sawmills, workers, forest land owners and
25 local communities.

1 The Domestic Industry's overarching goal is to
2 restore a stable market environment in which it can make
3 capital investments essential to its future. These
4 investments would allow the industry to grow to its natural
5 size and provide thousands upon thousands of new
6 manufacturing jobs without being impaired by unfairly traded
7 Canadian Imports. Our preference is for a new agreement but
8 if not then we must defend our rights to the trade laws.
9 Thank you, I would be happy to answer any questions
10 following the presentation this morning.

11 MS. HAINES: Thank you. Mr. Parnes?

12 OPENING STATEMENT BY ERIC PARNES

13 MR. PARNES: Good morning and thank you. My name
14 is Eric Parnes. I'm with Hughes, Hubbard and Reed and we
15 represent the Government of Canada and are coordinating
16 joint Respondents' defense. Now, we recognize that this is
17 a preliminary investigation and we recognize what that
18 means. But here there is not even a reasonable indication
19 of injury or threat of injury to the industry by reason of
20 imports from Canada.

21 The only way the Coalition can even make a run at
22 an injury case is my stretching reality, cherry-picking data
23 and simply ignoring the facts. I would like to highlight
24 some examples and suggest you ask if there is any merit to
25 its claims: Why does the Coalition need to overreach the

1 way it does?

2 Let's start with the Coalition's arguments that
3 Imports from Canada had an adverse impact on the U.S.
4 Industry. I would like you to ask the Coalition about the
5 financial data. According to the Petition, operating margin
6 for companies representing 32 percent of production was 11
7 percent in the first nine months of 2016. That is up from 8
8 percent in the 1st nine months of 2015. The questionnaire
9 responses suggest even better results.

10 The Coalition is complaining about double digit
11 profit margins. How are some of the biggest U.S. Producers
12 performing? I suggest that you ask the Coalition about
13 Weyerhaeuser, the largest U.S. Producer. Just two months
14 ago, its wood products division reported its strongest
15 earnings since 2004. They are not the only company
16 experiencing this kind of banner performance. You might ask
17 why neither Weyerhaeuser or any of the other top 10 U.S.
18 Producers is testifying here today.

19 The fact that every measure of U.S. Industry
20 performance has improved following the exploration of the
21 softwood lumber industry; how is the industry injured? The
22 Coalition trots out data on mill curtailments but I'd like
23 you to ask the Coalition how many of those 78 curtailments
24 lasted longer than two weeks? Or how many of those mills
25 actually ceased producing? Or how many of those mills

1 stated reasons other than imports from Canada as the cause
2 of the curtailed operations?

3 For that matter, we suggest the Commission ask
4 the Coalition why they're relying on Trade Adjustment
5 Assistance, or TAA certifications when the Commission has
6 made clear that it cannot rely on TAA determinations because
7 a different standard applies. Or ask them about the Simpson
8 Lumber Mill that closed in Shelton, Washington and you might
9 ask them why they saw no need to disclose the fact that it
10 was closed only after being bought by Sierra Pacific, another
11 Petitioner not testifying here today, which is building a
12 new and larger sawmill in its place.

13 The evidence of injury really just isn't there.
14 On the key conditions of competition, the overreaching is
15 just as dramatic. On substitutability, why does the
16 Coalition need to resurrect the long discredited claim that
17 softwood lumber is a perfectly fungible commodity? That
18 position had its brief time in the sun more than 20 years
19 ago when it was adopted in Lumber 3 only to be rejected on
20 review. And then the staff also rejected the Coalition's
21 position in Lumber 4 where it found imperfect
22 substitutability between Canadian and U.S. species of
23 softwood lumber. And the academic literature since has
24 reported even lower elasticity of substitution.

25 The notion that lumber of different species

1 competes stick for stick on the basis of nothing but price
2 is just fantasy.

3 What about the SLA? The Coalition should
4 explain in the letters that its members signed. At the time
5 of the SLA in 2006, including three of the companies
6 testifying here today, they represented at the time that the
7 SLA removes any alleged material or injury or threat of
8 material injury.

9 Of course there was a disclaimer that they would
10 remain in force and effect only during the SLA, but that's
11 really beside the point. The Commission is entitled to know
12 if the U.S. Producers meant it when they represented that
13 trade under the terms of the SLA was not injurious trade.
14 And what about volume? The Coalition is relying on volume
15 data from the U.S. Census that are well-known to be
16 understated compared to the more accurate statistics Canada
17 Data. The Commission will not see adverse volume effects in
18 either set of data but we will explain why the Statistics
19 Canada Data are more reliable and I would like you to ask
20 why the coalition sees the need to rely on overstated data.

21

22 Then there is price. The coalition argues that
23 U.S. Products compete on price and that there has been
24 downward pressure on prices caused by imports from Canada
25 but the sources they site were complaining about prices
26 while prices were increasing. The fact of the matter is

1 that lumber producers are price takers, not price leaders.
2 In this market, there is no way that they can extract higher
3 prices and ask the Coalition why they need to resurrect the
4 fiction that they, in fact, denied in the
5 past.

6 As far as the proposal for pricing data that the
7 Commission collect, it's actually the opposite of
8 overreaching. The Coalition has requested pricing data
9 calculated to avoid price comparisons and the response has
10 only reinforced the lack of direct competition. So we hope
11 that you'll ask the Coalition to explain these things and
12 frankly we don't think that the answers will support an
13 affirmative determination. Thank you.

14 MS. HAINES: Thank you and we'll have the first
15 Panel please come.

16 STATEMENT OF DAVID YOCIS

17 MR. YOCIS: Good morning. My name is David Yocis
18 of Picard Kentz and Rowe here this morning on behalf of the
19 Coalition. We are very pleased to have six industry
20 witnesses here this morning who will provide a variety of
21 perspectives from across the industry and from across the
22 country from Oregon to Maine, to Florida.

23 Most of our presentation this morning will be
24 their firsthand description of the material injury that is
25 being caused by unfairly traded Canadian softwood lumber

1 imports but first I would like to begin by briefly setting
2 the stage for their testimony and walking through the
3 fundamental facts about this case and why they support an
4 affirmative determination.

5 Allow me to begin with a quotation. "The lumber
6 trade has been subjected to a competition based on cheap
7 stumpage values which has been disastrous to investments and
8 profits and further, from the fact that it rendered market
9 values uncertain, produced conditions which are prejudicial
10 to lumber dealers and lumber manufacturers." The authors of
11 this quotation which is from an open letter to the lumber
12 industry in the United States, urged lumber producers from
13 around the country to come together and consider what to do
14 about these prejudicial conditions that had harmed their
15 investments and their profits that they recognized were
16 caused by imported softwood lumber from Canada produced from
17 cheap government-owned timber.

18 This meeting was to take place at the Grand Hotel
19 in Cincinnati, Ohio and the proposed date of the meeting was
20 December 15, 1896. One day and one hundred and twenty years
21 later the Grand Hotel in Cincinnati has long since passed
22 into history but we are here today dealing with what is
23 fundamentally the same issue and it is not difficult to
24 understand why this issue has been a perennial problem in
25 our otherwise generally harmonious relationship in trade

1 with Canada.

2 The production of softwood lumber has changed
3 dramatically since the 19th Century but the fundamentals of
4 the lumber market are constant. First, softwood lumber of a
5 given species, size and grade produced by any one company or
6 in any one country is virtually indistinguishable from
7 softwood lumber of the same species, size and grade produced
8 by another company or in another country. Producers
9 therefore compete primarily on price.

10 Second, lumber is a derived demand product.
11 Demand for lumber is driven mostly by demand for residential
12 housing as well as residential remodeling and repairs.
13 Lumber is a small fraction of the total cost of building a
14 home and, in fact, a decreasing fraction of the total cost
15 of building a home and so demand for lumber is relatively
16 inelastic. People do not go out and build more homes
17 because the price of lumber has fallen.

18 Third, the supply of lumber is also relatively
19 inelastic. It takes decades to grow trees for harvest and
20 the need for sustainable harvesting practice limits how much
21 supply can be increased in response to higher lumber prices.
22 Because supply and demand are inelastic, small changes to
23 supply or demand have large impacts on price. In fact,
24 lumber prices are quite volatile and changes of 10 and even
25 20 percent in both directions over a period of just a few

1 weeks is not uncommon.

2 Fourth, while Canadian imports have for decades
3 accounted for between 25 and 35 percent of total U.S. Lumber
4 Consumption, third country imports are small, generally one
5 or two percent of the total market. competition between
6 U.S. and Canadian lumber is therefore largely zero-sum, if
7 one gains, the other loses.

8 Fifth, Canada normally exports the majority of
9 its softwood lumber production to the United States and
10 continues to do so today.

11 Sixth, while 2/3rds of the cost of producing
12 softwood lumber, at least in the United States is accounted
13 for by the price paid in open and competitive markets for
14 raw materials, the longstanding Canadian tradition of public
15 ownership of commercial forests means that in Canada the
16 price and availability of the key input to softwood lumber
17 production is determined by government policy rather than by
18 markets.

19 The resulting differences and the relative cost
20 structures of Canadian and U.S. softwood lumber production
21 dramatically effects competition between Canadian imports
22 and Domestic Production in all phases of the business cycle.
23 Not necessarily in the same way at any given moment but
24 always in some way and almost never to the benefit of U.S.
25 Producers.

1 So the playing field in this industry has not
2 been level for a very long time. The period of
3 investigation before today's Commission is not any
4 different. The last set of trade cases, as Mr. Kentz
5 mentioned earlier was resolved with the entry in the Forests
6 of U.S. Canada Softwood Lumber Agreement in October of 2006.
7 Pursuant to this agreement, the U.S. Agreed to forego its
8 right to bring trade cases for the duration of the agreement
9 and for one year after its exploration in return for which
10 Canada agreed to impose export measures, a mix of export
11 taxes and export quotas when lumber prices were below a
12 certain level.

13 The first years of the SLA saw a housing crash
14 that triggered a financial crisis with widespread effects on
15 the U.S. and Global Economy. For the Lumber Industry that
16 effect was catastrophic. From 2006 to 2009 U.S. apparent
17 consumption fell by more than 50 percent and lumber prices
18 fell by nearly as much. During this period and in the first
19 early years of a hesitant recovery, the Softwood Lumber
20 Agreement did impose some restraint on Canadian lumber
21 imports.

22 But in 2013, prices were high enough that the
23 export measures were relaxed and then lifted. This remained
24 true for most of the rest of the Softwood Lumber Agreement
25 but since 2013, while lumber demand has continued to

1 improve, albeit slowly, prices have fluctuated but generally
2 trended downward. Current prices are well below the levels
3 of 2013 and 2014 notwithstanding higher demand and that
4 prices have declined even as total U.S. apparent consumption
5 has increased suggests that supply in the market is
6 increasing even faster in demand.

7 The public data on production, imports and
8 exports as we set forth in our Petition and will update with
9 the most recently released data in our post-conference
10 submission, the public data demonstrates that it is Canadian
11 Imports and not U.S. Producers who have been the primary
12 cause of that increased supply and that is especially true
13 of 2015 and in 2016 after the Softwood Lumber Agreement
14 expired. So from 2013 to 2014 apparent U.S. consumption
15 increased by nearly 3 billion board feet.

16 Of the incremental supply in the market, U.S.
17 Producers supplied 52 percent of the increased demand.
18 Canadian Producers supplied a disproportionate 41 percent
19 and the market share of imports increased from 28 to 29
20 percent. Then from 2014 to 2015, apparent U.S. consumption
21 increased again by 1.5 billion board feet but this time more
22 than 1.1 billion board feet or over 70 percent of the
23 increase was accounted for by Canadian Imports.

24 Only 200 million board feet or 12 percent of the
25 increased demand was supplied by U.S. Producers and the

1 market share of Canadian Imports again increased now to 30
2 percent. In the first three-quarters of 2016, apparent U.S.
3 consumption increased by nearly 2.9 billion board feet over
4 that same period in 2015. Nearly three billion board feet
5 or 74 percent of that increase was supplied by Canadian
6 Imports. Only 20 percent of the incremental supply came
7 from Domestic Producers and Canada's market share increased
8 to 33.9 percent.

9 The story of this industry over the past few
10 years therefore, especially since the expiration of the
11 agreement is one of an industry that was devastated by the
12 Great Recession, is trying to find its way back to normal in
13 a housing market that is still, despite the increases of the
14 last few years and is now seven years into a recovery and
15 yet still far from robust.

16 In an industry that is unable to find its way
17 back because Canadian Imports, which are now free from any
18 border restraints are capturing an ever growing share of the
19 market, are taking the large majority of increased demand
20 and through an ever increasing supply are putting pressure
21 on prices. The industry finds itself today to be sure, not
22 at the bottom of the business cycle, but stuck far below
23 where it should be, underutilizing our timber resources, not
24 bringing jobs back to communities, unable to justify the
25 investments needed to remain competitive.

1 We have heard in the past, we heard briefly
2 already this morning and I am sure we will hear in more
3 detail later, that customer preferences for certain species
4 of lumber limits substitutability between Canadian Lumber
5 and at least some U.S. production, especially of Southern
6 Yellow Pine.

7 As our witnesses will explain, Canadian Imports
8 compete directly with Southern Yellow Pine in many
9 applications, not all to be sure, but many. Certainly
10 enough to have a negative impact on Southern Yellow Pine
11 producers and on Southern Yellow Pine prices generally. In
12 fact, it is difficult to imagine how Canada could increase
13 its market share so quickly and take such a large share of
14 increased U.S. consumption without capturing at least some
15 customers that otherwise would be buying Southern Pine.

16 We have also heard in the past and will likely
17 hear again that lumber is really just a pass-through
18 industry and that the real injurious effects of Canadian
19 Softwood Lumber if any are on U.S. Timber Producers, not on
20 producers of the domestic like product, that that was the
21 Respondents' principle argument in number 4.

22 As our witnesses will explain, the relationship
23 between lumber and timber markets is complex, at least to
24 the United States where we have timber markets that are open
25 and competitive and in fact increasingly open to

1 international competition. As a general matter in this case
2 as in the past, the evidence establishes that lumber
3 producers and timber producers are both negatively impacted
4 by unfairly traded imports.

5 How much of the injury falls directly on U.S.
6 Lumber Producers and how much can be passed through to
7 timber producers through reduced prices that U.S. Lumber
8 Producers would pay for their timber is a complex matter and
9 it depends on a variety of factors at different stages of
10 the business cycle.

11 The short answer is that lumber and timber
12 markets are deeply interrelated. Lumber producers need a
13 healthy timber supply and timber owners need customers when
14 the time comes to harvest their trees. Over time, injury to
15 either industry could only cause harm to both. In terms of
16 how Canadian Imports have specifically impacted the U.S.
17 Lumber Industry, our witnesses this morning can tell you
18 much better than I can, how Canadian Imports have affected
19 their businesses, their workers and their communities and so
20 I would like to turn this presentation over to them.

21 STATEMENT OF STEVE SWANSON

22 MR. SWANSON: Good morning. My name is Steve
23 Swanson and I am the president of Swanson Group, a
24 family-owned company in Glendale, Oregon. I am also the
25 former chairman of the U.S. Lumber Coalition. Swanson Group

1 produces both lumber and plywood, not hardwood plywood. You
2 heard about that last week, but regular plywood. We employ
3 650 people in total operations. Our lumber is mostly
4 Douglas Fir, which competes directly with Douglas Fir, Hem
5 Fir and SPF Lumber from Canada.

6 These species are interchangeable which is
7 demonstrated by the specification requirements set out by
8 the American Lumber Standards Committee and the Canadian
9 National Lumber Grading Association. Those groups are the
10 respective national authority on setting structural
11 qualifications for each of the grades and their standard
12 grading rules for species of lumber on both sides of the
13 border are virtually identical.

14 We have been talking about the injurious effect
15 of subsidized Canadian lumber on U.S. Producers since the
16 Reagan Administration and we find ourselves in front of the
17 Commission once again seeking relief. Price volatility in
18 the industry has resulted in a long-term and sustained
19 negative impact on U.S. Producers. Canadian Imports of
20 lumber are a significant contributor to this volatility.

21 I can tell you that the key to running a sawmill
22 is a good source of competitively priced logs because logs
23 represent the single largest cost in the production of
24 lumber. The Canadian Producers however are assured of a
25 steady supply of logs that are sold at below market prices

1 by the Provincial Governments. In contrast, U.S. Producers
2 are subject to normal market conditions for both
3 availability and price of logs.

4 The guaranteed flow of below market logs allows
5 Canadian Producers to maximize production for export to the
6 United States in both good times and bad times and
7 experience has taught me this situation is particularly
8 devastating to U.S. Producers in down markets. The influx
9 of Canadian lumber imports through the recession and during
10 the recovery has had a tremendous negative impact on the
11 market.

12 At Swanson we are selling lumber today at the
13 same price as 1977 when I joined the business. We are
14 forced to compete only on price where the Canadians always
15 have an upper hand due to their low cost of production. For
16 example, we lost the white fir stud market in Phoenix,
17 Arizona; a large and growing residential market because
18 buyers were able to purchase cheaper SPF from Canada which
19 they had never used before.

20 During the Great Recession, we could not operate
21 at capacity. For example we were forced to eliminate shifts
22 in our mills. It is particularly difficult for a
23 family-owned company like ours to make business decisions
24 that lead to lay-offs in our communities. In Glendale
25 alone, which has a population of 800, we employed 150 people

1 in our lumber mill so you can imagine that even a small
2 layoff resulting from market conditions by unfairly traded
3 Canadian Imports causes ripples throughout the community.

4 The flood of Canadian lumber is clearly
5 problematic but its impact is exacerbated by another issue,
6 the offshore demand for logs. In the U.S. Market, lumber
7 producers must compete with the export demand for logs
8 however Canadian Producers, particularly those in DC do not
9 face this competition due to their legal restrictions on the
10 export of logs.

11 Competition due to offshore demand for logs was
12 particularly challenging for Domestic Industry in 2014 due
13 to the rise in purchase of U.S. logs but not Canadian logs,
14 by China. This is a new issue, one that was not experienced
15 by the industry in Lumber 4. Just as we would like to be
16 able to purchase logs from Canada, we would like to purchase
17 the logs that are currently being exported out of the U.S.
18 Pacific Northwest but the price of lumber does not allow us
19 to compete with the offshore bidders for these U.S. logs.

20 Although we had a slight reprieve after 2014, it
21 has become a major issue again this year resulting in a
22 cost-price squeeze. The cost of our raw materials is
23 increasing but we cannot pass it on to the consumers due to
24 our head-to-head price with subsidized Canadian Producers
25 who do not confront the same market conditions affecting the

1 price of the logs. Despite the struggles we did begin to
2 make some investments when prices improved in 2013 and 2014
3 but a lot remains to be done throughout the industry.

4 Recovery from the financial crisis is slow. Most
5 of our investments come after long durations of deferral.
6 Simply put, like any prudent business we are recovering from
7 the past to try to build capital for the future. While we
8 have been able to make some investments to improve our
9 mills, they are contingent on expectation of an adequate
10 return. An unfairly subsidized lumber from Canada keeps us
11 from generating a sustained margin over the business cycle.

12
13 Canadian Imports destabilized the market, forced
14 closures during economic downturns and hold down profits
15 that are needed and improve markets to sustain operations to
16 the business cycle. We are always impacted by unfairly
17 traded Canadian imports that in turn inhibits our ability to
18 make investments. As an active Board Member of the U.S.
19 Lumber Coalition, a lumber mill owner and a member of our
20 great community in Oregon, I understand too well the impact
21 of the massive flow of subsidized lumber from Canada. This
22 is why trade relief includes a full offset of the unfairly
23 traded imports which we did not have under the SLA is the
24 only way the U.S. Industry can truly recover from the Great
25 Recession and foster an investment environment where the

1 industry can grow to its full potential to serve the U.S.
2 Market. Thank you for your time and attention. I will be
3 glad to answer any questions.

4 STATEMENT OF ANDREW MILLER

5 MR. MILLER: Hello, my name is Andrew Miller. I
6 am the CEO of Stimson Lumber Company. We are a sixth
7 generation family business operating six saw mills in
8 western Oregon and northern Idaho, with timber land holdings
9 in the same region. We employ 800 people in these
10 communities, and I'm one of the largest U.S. producers of
11 construction-grade stud lumber sawn from Douglas fir,
12 hemlock, SPF and white fir timber.

13 Our largest customer is the Home Depot. We are
14 one of the Home Depot's largest stud vendors nationwide.
15 We sell to nearly every Home Depot store in America. My
16 experience in the market has made one thing clear: wood is
17 wood. Whether it is Douglas fir, hemlock or SPF,
18 construction grade or specialty products, the price
19 structure for wood is the same, and when Canada floods the
20 market with lumber it pulls down the price structure for
21 all products.

22 Canada's system insulates its lumber producers
23 from these market conditions by granting them tenure to
24 allow supply for a given saw mill, and linking the price of
25 timber to the price of lumber. This allows them to maintain

1 profitability and to continue their production and export of
2 lumber despite price drops, which in turn further floods the
3 market.

4 In contrast, U.S. lumber producers must contend
5 with variable prices for lumber, and markets for lumber that
6 force them to curtail their own production and defer
7 investment in wheat markets, and reinvestment and expansion
8 in good markets. In the Pacific Northwest, this is the case
9 regardless of species. The price of stud species are
10 similar and move in tandem because they are interchangeable
11 per building codes in the construction of homes and other
12 structures.

13 The same price structure and pressures apply to
14 specialty products such as solid sawn timbers and long
15 length dimension. These are custom products, but they are
16 produced from the same logs as construction grade studs, and
17 are subject to the same interchangeability by both consumers
18 and producers.

19 This means, for example, that coastal British
20 Columbia's mills that saw Douglas fir to serve the Asian
21 market, then periodically and regularly dump solid sawn
22 beams and all length dimension lumber in the U.S. when Asian
23 demand goes slack.

24 The impact from this behavior is especially
25 severe for specialty producers, because we have a

1 particularly thin market. When Canada over-produces the
2 price drops, but there is no corresponding increase in
3 demand. Instead, demand is saturated for months. U.S.
4 producers have no choice but to curtail our operations.
5 Even if we were to build up our inventories of these
6 specialty products, we risk degradation of those products
7 while waiting for the market to clear, and once demand does
8 reappear we have to compete with low-price offers from
9 Canada.

10 Our customers are aware of this cycle and I have
11 seen them hold back on purchases for months at a time, in
12 anticipation of the inevitable cheap pricing from Canada.
13 My company cannot add operating hours or employees in this
14 environment, even though we have both the capacity and
15 desire to do so. Canada's harmful effect on the overall
16 price structure for lumber is also evident in our experience
17 with the Home Depot.

18 Stimson is fortunate to have an agreement in
19 place, for example, by which we are the sole stud suppliers,
20 with limited exceptions, for the Home Depot Chicago market.
21 The pricing for our agreement is based on random lengths SPF
22 stud pricing, the premium added for our supply commitment.
23 Random length prices reflect open market transactions, but
24 those transactions are always subject to Canadian price
25 pressures because buyers are negotiating for construction

1 grade products based on offers from various regions,
2 including Canada.

3 The agreement is generally good for business,
4 but our commitment to supply a large volume of product to
5 our customer does leave us vulnerable to Canadian-driven
6 price decreases. When the prices for studs dropped in 2015,
7 Stimson lost millions of dollars on its sales to the Home
8 Depot because our mills do not have the option of curtailing
9 production until prices recovered. Had we done so, we would
10 have saved on production cost and reduced losses, but we
11 would have lost our agreement and market share with Home
12 Depot.

13 Again, wood is wood and what Canada does in one
14 market will inevitably impact the entire lumber price
15 structure. I also want to touch briefly on the issue of
16 federal timber supply. Put simply, an increase in federal
17 timber supply is highly, highly unlikely for political and
18 legal reasons, and regardless would not alleviate the
19 current conditions facing U.S. producers.

20 U.S. producers compete for timber against export
21 markets in China, Japan and Korea, and against plywood mills
22 and engineered wood products mills, all of which pay premium
23 prices for the same logs Stimson saws into studs. Even if
24 the price of timber were to decline with an increased
25 federal supply, private timber suppliers can respond by

1 increasing their sales to Asian markets or withholding their
2 products from the market until prices recover, which is the
3 behavior we saw in 2009 and 2010.

4 Either way, the resulting availability and price
5 for timber remains a jump ball for lumber producers on a
6 daily basis, and disconnected from the lumber prices that
7 we are able to obtain. Canadian producers on the other hand
8 do not have to compete for timber against the export market
9 or against competing wood product producers, or against each
10 other for that matter, because they have guaranteed tenure
11 for their timber supply. Their system also links their
12 timber prices to lumber prices, which guarantees a profit in
13 all market conditions.

14 The result is that Canadian producers can follow
15 the market all the way to the bottom, something that U.S.
16 producers cannot do no matter how much federal timber
17 supply is available. Last year, Stimson operated well below
18 its production potential as a direct result of Canada's
19 repeated market surges. I cannot invest in fixed capital,
20 working capital or additional employees to expand output to
21 potential, because the market for all wood products remains
22 too risky.

23 I am tired of explaining to my employees that
24 their hours have to be cut and curtailed yet again, because
25 Canada continues to flood our markets, driving prices down.

1 Although we are fully capable of competing in a fair market,
2 we cannot compete against a system that depresses the entire
3 price structure for wood, while remaining immune from the
4 consequences of its actions. Thank you for your time today.

5 STATEMENT OF STEVE BANAHAN

6 MR. BANAHAN: Good morning. My name is Steve
7 Banahan. I'm the sales manager for Pleasant River Lumber in
8 Jackman, Maine. Pleasant River is a 100 percent U.S. family
9 owned business, with four generations of experience in the
10 forest products industry. Our mills produce over 225
11 million board feet of spruce dimensional lumber and Eastern
12 white pine annually. Our customers all along the eastern --
13 for customers all along the Eastern seaboard.

14 I have 35 years of experience in the industry.
15 I worked for Moose River Lumber for 27 years before Pleasant
16 River acquired it in February 2015. Our mill is situated
17 just 15 minutes from the Canadian border. A number of
18 Canadian mills are located right across that border. In
19 terms of softwood lumber, we are essentially a single
20 market. We sell the same species, share the same customers
21 and have the same sales and shipment terms.

22 In other words, we're talking about an apples to
23 apples comparison between Pleasant River and Eastern
24 Canadian mills. Lumber is generally sold like this.
25 Customers will send a request for quotation by email or by

1 phone to five or ten saw mills and wholesalers, with the
2 same request and shipping destination. The customers'
3 decision-making process is typically based on price,
4 quality and shipment terms, in that order.

5 For example, customers regularly call to request
6 a two by four delivery without specifying a particular mill,
7 or list a few mills that they would be satisfied with. That
8 is because this is a market where species are fully
9 substitutable and price is the number one factor in the
10 customer's decision. This is what I've observed over the
11 past 35 years. Customers will then give us the go-ahead or
12 tell us they went for another mill's offer. They almost
13 always give us the competing mill price. That is how I get
14 consistent feedback on lumber quotes.

15 It is part of the normal course of business.
16 Depending on our relationship with the customer, they will
17 sometimes give us the opportunity to meet the price. That's
18 what we call having a last look. That is one of the ways to
19 realize the impact of cheaper Canadian spruce pine fir
20 species or SPF on our sales over the years.

21 In terms of pricing, it fluctuates from one call
22 to the next. I send out a price offering on Monday and we
23 adjust all week depending on supply and demand. I
24 therefore get a good picture of where prices stand at any
25 given time, whether they're from U.S. mills or Canadian

1 mills. We're all competing for the exact same market, so
2 price is usually what makes or breaks the sales.

3 We ship approximately 30 percent of our lumber
4 by rail and 70 percent by truck. Northern Canadian mills
5 ship mostly by rail. That is how they access the Southern
6 U.S. market. The further south they ship, the higher the
7 percentage of rail transport. We ship all down the Eastern
8 seaboard from Maine to Florida. So do the Canadian mills 15
9 minutes up the road. As a main mill, we essentially share
10 the same market as Quebec mills, and also compete with
11 Ontario, the Maritime Provinces and British Columbia.
12 That's because SPF species are perfectly interchangeable.
13 We are mostly competing on price.

14 Canadian mills have no problem selling in the
15 exact same U.S. markets as their timber costs are so low.
16 Pleasant River takes pride in producing a high quality
17 lumber, but with market-based timber costs being what they
18 are for us, compared to what they are 15 minutes up north,
19 our margins are even tighter because of our quality-driven
20 approach.

21 Fair competition is all that we ask for, but the
22 current system in Canada is hurting us. It's having a real
23 impact on our workforce, on our sales and our ability to
24 invest. Mills on both sides of the border sell in the U.S.
25 south because both SPF and southern yellow pine, or SYP, can

1 be used in most structural framing applications.

2 For example, any condo project along the Eastern
3 seaboard or in the south will typically list three or four
4 different species, and then pick the most cost-effective
5 bid. Southern yards will usually stock both southern yellow
6 pine and SPF. I can attest to the fact that we regularly
7 compete and lose sales to southern yellow pine, especially
8 when we start reaching into North Carolina, South Carolina
9 and Georgia.

10 The Canadian mills 15 minutes from ours will be
11 facing similar issues if their production costs were
12 similar. Our company also produces eastern white pine,
13 which is the type of wood that is used for non-structural
14 purposes, in flooring, doors, molding and window frames as
15 examples. We're in head to head competition with eastern
16 white pine from Quebec and Ontario. It's difficult to match
17 their prices because of the cheap logs they can source on
18 public lands.

19 So in other words, all the species we produce
20 are in head to head competition with Canadian lumber, and we
21 are losing. Canadian mills compete in exactly the same
22 markets as we do, reach as far south as we do. I've
23 personally been able to record a number of sales lost to
24 Canadian competition in my capacity as sales manager for the
25 past 30 years. But these past years have been particularly

1 worrisome, as Canadian supply has been outpacing demand.

2 Nearly all our lost sales are due to price
3 differences, regardless of where the sale is being made or
4 the species in question. I've been processing lumber a
5 stone's throw away from Canadian mills for the past 30
6 years, so I know we're essentially operating under similar
7 market conditions and in all regards except for the price of
8 their logs. Thank you for your attention. I'll be happy to
9 answer any questions.

10 STATEMENT OF CAROLINE DAUZAT

11 MS. DAUZAT: Good morning. My name is Caroline
12 Dauzat and I am one of the owners of Rex Lumber. We are a
13 fourth generation family owned and operated company that
14 produces southern yellow pine dimension lumber. My great
15 grandfather started several mills in the early 1900's that
16 failed, and finally Rex Lumber in the 1920's that
17 succeeded.

18 We've been in this business ever since, today we
19 have three saw mills in three different locations: Bristol
20 and Graceville, Florida and Brookhaven, Mississippi. In
21 Brookhaven, we are one of the only major manufacturing
22 industries in town. The story is even more urgent than
23 Florida. Everyone knows the Florida coast is booming, but
24 the rural areas are not. These are forgotten areas.

25 In Graceville and Bristol, other than prisons we

1 are all those communities have. In the 50's, they called
2 Graceville the smallest town with the most millionaires, and
3 it was the smallest with a Cadillac dealership. But it's
4 desolate now. There's hardly any industry left. In
5 Bristol, there's our mill plus an OSB mill down the road in
6 Hosford, Florida. That's pretty much it.

7 These towns depend on us for the property taxes
8 we pay and the payroll that supports our entire community.
9 We try to help our communities by utilizing local services
10 as much as we can, such as machine shops, welders, auto
11 parts, hardware stores, gas stations and the like. We
12 provide scholarships to several of our local high school
13 students, so they are able to attend our community
14 colleges, and we try to get in front of the kids and their
15 parents and get them interested in manufacturing as well as
16 community service.

17 People rely on us for the jobs we provide, and
18 also for the good that we do, but subsidized Canadian lumber
19 makes it harder for us to do these things. Canadian wood
20 affects us. We compete against it head to head in the
21 farming market and in the truss market. Currently, around
22 50 percent of our wood goes to these two uses, so that's a
23 big part of our business.

24 We've lost a lot of that business over the past
25 three years because of subsidized Canadian lumber. It has

1 taken away one of our best customers, a truss manufacturer
2 in the Midwest. In 2013, this customer purchased a lot of
3 wood from us, almost seven million board feet. In 2014 and
4 2015, sales declined over 80 percent. In 2016 year to date,
5 they have purchased about 570,000 board feet. That is a 91
6 percent decline.

7 We know they quit buying from us because they
8 switched to cheaper Canadian wood. They told us. It came
9 directly from their mouths. Canadians will say that SPF
10 doesn't compete with my company's product, southern yellow
11 pine, but that's simply not true. I see competition between
12 the two species every day. Earlier this year, I saw it in
13 the framing market, as Rex Lumber tried to help out our
14 community.

15 Rex has donated to Habitat for Humanity in
16 nearby Walton County for the past four years. We usually
17 donate wood and they use our lumber to frame the houses.
18 This year, Habitat in our home county of Jackson asked us to
19 sponsor an entire house. We were more than happy to do it,
20 and we agreed that we would donate the lumber and cover the
21 rest of the sponsorship in cash.

22 Well, the Habitat people went out and just
23 purchased the lumber at a retail store instead. I was
24 pretty disappointed, but I didn't know until I went to the
25 site that the lumber they bought was Canadian. That was

1 like a dagger in my heart. Our Graceville mill is one mile
2 down the road. The lumber that Habitat used was from a mill
3 over 3,000 miles away.

4 Habitat for Humanity has used our wood to build
5 houses in Walton County for the past four years. Canadians
6 will say that spruce and southern yellow pine are
7 different, but that they aren't substitutable because of
8 small differences. But that is inaccurate. Professional
9 builders and those of us in the lumber business know that
10 any differences are minor, and just don't matter that much.

11 Southern yellow pine that isn't used for farming
12 to trusses gets treated so it can be used in decks, ground
13 contact and exterior work. Treated southern yellow pine
14 doesn't compete head to head to spruce pine fir, but we
15 still see the effects of Canadian competition in this
16 market. Because Canadians flood the framing and truss
17 markets, more southern yellow pine chases after the
18 remaining treated segment of the market.

19 This means prices are lower for treated lumber,
20 and that squeezes our business just as much as head to head
21 competition does. Right now, the market in the south is
22 better than in other parts of the U.S. Profitability is up
23 at the moment. That's true, but that's because the current
24 market is an anomaly.

25 During the crisis, many mills closed or went

1 bankrupt. It felt a little bit hopeless. Rex made layoffs
2 for the first time since the Great Depression. Even though
3 the market is up, there are fewer mills to buy all the
4 timber that no one harvested during the recession, and that
5 timber is now hitting the market.

6 We've got relatively low log cost at the moment,
7 but it won't stay that way for long. My brother, sisters
8 and I own Rex Lumber Mill, and we are looking to grow our
9 business. So far, we've done that by acquiring bankrupt
10 mills when they come up for sale. We would like to expand
11 in a more rational manner, but it's difficult with all the
12 market uncertainty and the price Canadian lumber imports
13 create, in good markets and bad.

14 In a down market, we expected to curtail our
15 production while Canadians turn out a steady supply of wood.
16 In 2009, they did just that and they'll do it again in the
17 next downturn. Wood just keeps coming down from Canada. It
18 makes a bad market just horrible. But even in up markets,
19 Canadian lumber depresses our prices. Like I said, they
20 just keep pushing out subsidized wood.

21 This causes a lot of instability, even when
22 we're in the good part of the business cycle. That means
23 companies in the south hesitate to invest and expand their
24 operations. Right now, with the market relatively good,
25 most businesses are just now making the capital improvements

1 for the first time since the crisis.

2 While profitability may be up, those profits go
3 directly towards investments that we should have been able
4 to make years ago. As I said, my family has been in this
5 business for over 100 years. I know what unfairly traded
6 Canadian lumber does to us. Particularly in the past year,
7 we've seen damage in the markets where we compete head to
8 head and in our other markets.

9 But it's not just this last year. They
10 repeatedly flood the market, especially when we were most
11 vulnerable. It's been making it harder for us to invest in
12 our company and in our communities. Resolving this issue is
13 vital to our industry, my family's company, our employees
14 and our communities. Thank you for taking the time to
15 listen to me today. I'll be happy to answer any questions.

16 STATEMENT OF BLAKE SULLIVAN

17 MR. SULLIVAN: Good morning. Thank you for the
18 opportunity to speak with you today. My name is Blake
19 Sullivan. I am a third-generation timberland owner from
20 Georgia, and a consultant to other private landowners.

21 My grandfather started a sawmill in 1932, which
22 he ran successfully until he sold it just prior to his
23 passing in 1979. So I've been around sawmills and
24 timberland all of my life. You see, it's in my blood.

25 I hold a Master's Degree in Forestry from Duke

1 University, and have held leadership roles in the Georgia
2 Forestry Association and the Forest Land Owners Association.
3 I have been awarded each organization's highest awards,
4 including being named National Land Owner of the Year by the
5 Forest Land Owners Association.

6 In addition to managing my family lands, I work
7 for a wide variety of private clients, from former President
8 Jimmy Carter, to small farmers whose families have owned the
9 land for generations.

10 I am here today to speak about the timber supply
11 conditions in the South, and why any current profits for
12 Southern lumber producers will inevitably give way to
13 long-term volatility and losses in the face of unfairly
14 traded Canadian softwood lumber.

15 Right now we have an overhang of timber supply
16 that means lower timber costs for our Southern lumber
17 producers, but those conditions are unusual and temporary,
18 because of competition from dumped and subsidized Canadian
19 lumber which has severely damaged our Southern lumber
20 producers. Southern landowners are not able to get a price
21 for their softwood timber that would allow them to invest in
22 continued productivity of their land, and Southern lumber
23 producers are not able to invest in their mills in a way
24 that would allow them to maintain profitability once the
25 overhang of timber disappears.

1 The Southern United States is the wood basket of
2 the world. My State of Georgia has over 24 million acres of
3 forest land. Our primary tree species are Southern Yellow
4 Pine. These are the trees that at maturity are sold in the
5 open market to produce softwood lumber, or other wood
6 products.

7 Southern Pine takes about 25 to 30 years to
8 mature from the time of reforestation until harvest. I am
9 proud to say that I have--that we have more timber growing
10 in Georgia today than since the 1930s.

11 I personally have caused many millions of trees
12 to be planted. Landowners harvest, manage, and reforest
13 their lands in response to economics and market forces. The
14 law of supply and demand is fundamental in a capitalist
15 system, and forest landowners react to these changes over
16 time.

17 Landowners must have a long-term view. You see,
18 most of the trees that I plant today will not mature until
19 after I die. Landowners make long-term decisions in
20 reaction to short-term market decision--market conditions.

21 Canadian lumber producers operate in a
22 fundamentally different environment. You see, the Canadian
23 system largely insulates its timber market from conditions,
24 and as a result assures its lumber producers of an ample
25 supply of low-cost subsidized timber regardless of those

1 conditions.

2 This distinction has sharp consequences for both
3 the timer and the lumber markets in the U.S. because the
4 response by U.S. timberland producers to short-term market
5 conditions will affect raw material costs and profit margins
6 for U.S. lumber producers over the long term.

7 This is exactly what we're seeing in the South.
8 During the Great Recession of 2007 to 2009, local sawmills
9 cut prices they were willing to pay for soft-timber trees in
10 response to lower demand for softwood lumber.

11 Landowners reacted to that by refusing to sell
12 their trees and letting them grow until they could get a
13 better price. In response, we had a buildup of timber in
14 the South, including pine used to make softwood lumber.

15 This worked in the short term. However, expenses
16 such as property taxes, management costs, and other expenses
17 continued to accrue. With little to no revenue coming in,
18 many landowners have been forced to sell off their supply of
19 timber just to make ends meet.

20 This has translated into relatively low timber
21 prices for many Southern lumber producers today. We do have
22 some regional price variability. For example, Coastal mills
23 have fewer supply options than Inland mills, and may bid up
24 the price of timber available in that area. But overall,
25 soft-timber quality trees in the South are selling for under

1 \$30 per ton on the stump, which is just half of what we saw
2 from the peak prices of 1997.

3 Those prices have allowed lumber producers to
4 make higher profits in the last couple of years, even though
5 their production volumes have been held down by Canadian
6 import competition.

7 But make no mistake, these conditions are
8 temporary. We already saw significant ownership
9 consolidation during the Great Recession when many owners
10 could not make enough revenue to justify holding onto their
11 land. And as timberland owners continued to struggle to
12 make a return on their forest, they are mitigating their tax
13 burden by granting conservation easements, and entering into
14 public/private partnerships.

15 These arrangements mean that landowners given up
16 their right to use the land, and lose their incentive to
17 manage the land to maximize forest productivity. These
18 conditions will intensify if Canadian imports are not
19 subject to fair trade remedies.

20 All of this has long term and lasting impact on
21 the softwood timber supply available to Southern lumber
22 producers, because Southern timberland owners are making
23 long-term decisions to shift their forests into less
24 productive, or even nonproductive uses.

25 You heard earlier from my colleague who explained

1 that U.S. lumber producers compete on the world market for
2 both timber and lumber. Canadian lumber producers compete
3 only on the world market in selling lumber, never for buying
4 timber, which unfairly protects their profitability.

5 As a temporary timber supply overhang in the
6 South disappears, the Southern lumber producers will face
7 the same competition for logs that we see elsewhere in our
8 country. This means lower or vanishing profits and missed
9 investment opportunities for our lumber producers over the
10 long term.

11 I appreciate your time and attention to this
12 matter, and am happy to answer any questions you might have.

13 STATEMENT OF CHUCK ROADY

14 MR. ROADY: Good morning. And despite the name
15 tag, my name is actually "Chuck" Roady. I'm not sure where
16 the "Y" came from.

17 (Laughter.)

18 MR. ROADY: But I can guarantee you my friends on
19 the BC side of the border will say, "So, Chucky, how did
20 your testimony go?"

21 (Laughter.)

22 STATEMENT OF CHUCK ROADY

23 MR. ROADY: My name is Chuck Roady and I'm the
24 Vice President and General Manager and a board member of
25 F.H. Stoltze Land and Lumber Company. We are the oldest

1 privately owned lumber company in Montana, now in our sixth
2 generation dating back to the early 1900s.

3 We operate a small- and a large-log sawmill, a
4 wood biomass power plant, and own about 40,000 acres of
5 timberland near Columbia Falls in the very northwest corner
6 of Montana.

7 We have about 120, 130 employees, along with
8 about 80 to 100 logging and trucking contractors who all
9 rely on us for their livelihood.

10 We have been involved in the softwood lumber
11 business since the 1980s. So this is not a new issue for
12 us, and it's very simple in my mind. The injury to the U.S.
13 lumber industry from subsidized Canadian timber has been and
14 continues to be very real.

15 When you are located 40 miles from the
16 International Border, you see significant volumes of lumber
17 come across the border on a daily basis. I watch as many as
18 30 cars, rail cars of lumber, Canadian lumber, go by my
19 sawmill every day on the mainline of the railroad.

20 We continually watch the incoming Canadian lumber
21 flood our markets while we struggle to sustain our own
22 operation. Canadian producers sell the same products and
23 the same species that we do at Stoltze. The species we
24 harvest and we saw in our mill, Douglas Fir, Larch,
25 Engelmann Spruce, Lodgepole Pine, and the Alpine Balsam Fir,

1 they're all the same, and they're utilized just across the
2 border.

3 The only differences are the policies and the
4 systems in which the timber is sourced to the mills and the
5 prices we pay for that timber. The Canadian Government
6 system provides their lumber mills with a steady, reliable
7 stream of cheaper logs, while in contrast U.S. producers
8 must purchase their timber and logs in a market that
9 constantly fluctuates in terms of availability and price.

10 These are very distinct and significant
11 differences in the systems between the two countries. It is
12 the reason why Canadian mills are able to thrive in good
13 markets and survive well through difficult market periods,
14 while U.S. mills are able to capitalize--are not able to
15 capitalize from the full benefits when we have good time
16 markets, and we're crushed in the bad-time markets.

17 This fundamental difference in the two systems is
18 the reason that Canadian mills can invest and grow capacity
19 while the U.S. industry declines. My neighbors to the north
20 of the border do not have to constantly worry about
21 procuring sufficient timber to operate their mills. But
22 that very concern is what keeps me up late every night.

23 Stoltze formerly owned and operated mills in
24 Dillon and Darby, Montana, and Sigurd, Utah. They are all
25 now closed. We simply did not have the same access to the

1 logs and timber, particularly not government-subsidized
2 logs, as do our Canadian counterparts.

3 We would love to be able to purchase timber under
4 that same type of system as our Canadian competitors, and
5 they're just up the road from us. However, we have very
6 diverse systems with dynamic differences in the amount we
7 pay for that timber.

8 You are most likely going to hear from our
9 northern neighbors to discuss the impact of the Mountain
10 Pine Beetle in BC and Alberta over the last 10 years, and
11 it's real. They may even suggest that their timber supply
12 going forward will be more constrained than it has been in
13 the past.

14 Well I am very familiar with Mountain Pine Beetle
15 epidemics and the manufacturing of Beetle Kill Wood. We
16 have experienced our own such epidemics in the 1980s and
17 '90s in Montana, and the rest of the inter-mountain U.S.
18 West.

19 Our Lodgepole Pine stands turned yellow, then
20 orange, and finally gray. But rarely did we get a break in
21 stumpage that we paid for that timber, or allowed the
22 harvest of additional volumes on our federal forest lands in
23 order to salvage those bug-killed trees.

24 We harvested and processed as much of the
25 beetle-killed wood as was available for purchase. Most of

1 this timber is merchantable and it's utilized in most
2 structural applications. On the U.S. side of the border,
3 there was not a subsidy from the Federal Government in order
4 to go salvage this wood.

5 If the Canadian Government chooses to provide
6 these subsidies, then there must be an offset to counter the
7 difference when their lumber enters the U.S. marketplace.

8 We have been fighting over this issue for 30
9 years now and, you know, I continue to hear a lot of
10 publicity about the Canadian jobs, their communities, their
11 producers who will be impacted by an agreement on lumber,
12 but I can adamantly maintain this issue also impacts our
13 employees, and our jobs, and our companies, and our small
14 towns in a real negative way.

15 We have not been able to run our mills at
16 capacity production. Sawmills are simply not designed to
17 run at half-throttle. They're just not efficient. I don't
18 even know anymore what it's like to run my mill at two full
19 shifts for 12 months a year.

20 Given a level playing field so we can operate at
21 our capacity, our U.S. mills could provide a much larger
22 share of the U.S. lumber market demand.

23 What is even really agonizing is that reductions
24 we experienced in our production hours leads to fewer jobs
25 in our whole community that relies heavily on our industry.

1 I would love to add more production hours to our whole
2 operation, but that can only come if there are some changes
3 in the current trade conditions.

4 I am a member of several North American industry
5 initiatives to promote more and different uses in the
6 marketing of our forest products. In that role, I work very
7 closely with my Canadian producer counterparts all the time
8 in our joint effort to promote forest products.

9 I have worked my entire career adjacent to the
10 Canadian border. I spend many, many days and weeks
11 recreating in Canada. And most importantly, I call many of
12 the Canadians my friends for a lot of years.

13 I have absolutely nothing against the forest
14 product producers north of the border, and I welcome their
15 competition. But we can't continue to ignore the simple
16 fact we need a level playing field to balance those two
17 different timber sourcing systems. It's just that simple.

18 The Canadian lumber imports continue to seriously
19 harm our U.S. industry, and until we get an agreement that's
20 effective and is sustainable over time, we will continue to
21 fight this issue for our companies, and our workers, and our
22 communities.

23 Thanks for an opportunity to share my
24 perspective.

25 MR. YOCIS: Thank you very much. That concludes

1 our presentation this morning. We would be happy to answer
2 any questions that you may have.

3 MS. HAINES: Thank you very much. We will start
4 with Mr. Ruggles.

5 MR. RUGGLES: Good morning. Thank you for coming
6 here and giving us lots of information.

7 A few things. One, what are the changes in the
8 species preference from the last agreement to this, as far
9 as, you know, who is using what, how they're using it, and
10 why? Are there any big changes? Anything deeply different
11 in the species from the 2002 to now?

12 MR. MILLER: Andrew Miller, for the court record.
13 We compete throughout the U.S., and we have seen a marked--
14 I'd say there's been a distinct commonality. In other
15 words, I see no specie preference amongst our customers
16 today, and I used to see some in 2000. It's all about
17 price.

18 MR. SULLIVAN: Similar to our situation. As I
19 stated in my testimony, we produce a premium White Fur stud,
20 highly preferential to the end user. And we sold that
21 regularly into the Phoenix, Arizona, market. And we were
22 told very recently that, in spite of the fact that our
23 product was superior, it was being replaced by cheaper SPF.
24 That SPF was as much as \$50 per 1000 cheaper than we could
25 offer it at.

1 MS. DAUZAT: We referenced in my testimony, we
2 sell to the truss market and framing market, and more and
3 more I see SPF. You know, it's interchangeable in that
4 arena.

5 MR. RUGGLES: Alright, the other one that always
6 comes up is let's say you choke down the Canadian supply.
7 How will you guys respond? Will you be able to supply the
8 market? Will you be able to supply everything that's
9 needed? Will you be able to fill everything that is being
10 done now?

11 MR. SWANSON: Yes. Both of my operations, both
12 the stud mill in Roseburg and the sawmill in Glendale are
13 running at essentially two-thirds capacity. We run one full
14 day shift. We have a sawmill crew and a planer crew. The
15 swing shift is a crew that works part of the week in the
16 sawmill and the rest of the week in the planer.

17 We could easily staff up and produce additional
18 product. And the logs are available. The biggest source
19 that would be additional volume for us would be what's
20 currently being exported, and we have not been able to
21 compete for those logs because the price of lumber is
22 unfairly depressed because of Canadian imports.

23 If our price of lumber was where it should be, we
24 would be able to buy those logs at are currently going
25 export to produce more lumber and supply the U.S. market.

1 MR. MILLER: For the same reason Steve cites, our
2 capacity could be increased by a third to do even up to 40
3 percent over current level. And the logs are available.
4 It's a price issue.

5 MR. SULLIVAN: To speak to the supply of timber,
6 we have an abundance of that in the Southeast, and we have
7 no constraints as far as supply of timber. It's very
8 sustainable and we're growing more today than we have ever,
9 well since the 1930s. We're producing much, much more
10 timber supply than ever before.

11 MS. DAUZAT: We're running at about 75 percent.
12 So we definitely can increase.

13 MR. RUGGLES: John, I'm going to step on your toes
14 for just a minute here. Could you please tell me how you
15 set the lumber prices in the U.S. market?

16 MR. MILLER: We don't set the lumber prices. They
17 are set for us.

18 (Laughter.)

19 MR. MILLER: Through daily transactional
20 competition by buyers soliciting offers from a wide variety
21 of regions and mills. And today oftentimes it's just done
22 through Internet inquiries. You'll get emails. Salesmen
23 get emails that say here's this product delivered to
24 Memphis, for example, and you send in a quote, and they'll
25 send you back. And in our record we've submitted many

1 documentations where we've made offers and the customer
2 comes back and says, like Steve said, we've got a lot of
3 long-time relationships with people, but they come back and
4 say you can have a last look, but you're going to have to be
5 \$50, \$60 less because that's the quote I have in front of me
6 from a Canadian mill in British Columbia. And those are all
7 part of the record, those documents.

8 MR. SWANSON: So every transaction is between a
9 willing buyer and a willing seller. Our salesmen will
10 either call out to their customers, or they'll receive a
11 call. And it's a negotiation that happens on every single
12 transaction. The price of lumber goes up. The price of
13 lumber goes down. It's done--the orders are placed purely
14 on price.

15 MS. DAUZAT: It's the same with us. We have a
16 sales department. They're making calls daily and they sell
17 based on price.

18 MS. HAINES: Thank you. Ms. Turner?

19 MS. TURNER: Good morning. Thank you all for
20 being here. I'm Robin Turner. I'm with the Office of the
21 General Counsel.

22 I think I'll start off with actually sort of less
23 of a legal question and more of the
24 substitution/interchangeable question. In the 2002
25 determination on pages 25 and 26 of the public opinion,

1 USITC Pub. 3509, the Commission noted that the parties
2 disagreed regarding the level of substitutability between
3 subject imports and the domestic like-product.

4 The Commission, however, went on to find that
5 after carefully considering the record--and this was a
6 quote--"We find on balance that subject imports of softwood
7 lumber from Canada are at least moderately substitutable for
8 domestically produced softwood lumber. As we have
9 recognized in prior investigations, Canadian softwood lumber
10 and the domestic like-product generally are
11 interchangeable, notwithstanding differences in species and
12 preferences. In particular, the evidence in these
13 investigations demonstrates that subject imports and
14 domestic species are used in the same applications."

15 So my question to you is, you know, first of all
16 do you agree with the findings on the 2002 Commission
17 determination that they still apply now?

18 I do note that there has in the Petition used the
19 word "commodity product." I don't think the Commission did
20 use the term "commodity product," but it did note that there
21 was at least moderate substitutability.

22 So any distinction between that, which I think
23 the Commission does see a distinction between "commodity"
24 and at least "moderately substitutable." If you can
25 actually, each of the industry, indicate to me, first of

1 all, do you see that these are still interchangeable
2 between? And then David and Andrew if you want to elaborate
3 on the more legal aspect, that'd be great as well.

4 MR. MILLER: That's a good question. Andrew
5 Miller. I can tell you with regards to stud lumber, it's
6 100 percent interchangeable every day of the week throughout
7 the construction of homes and buildings in America.

8 `Most of our customers don't have a specie
9 preference. Wood is wood, 2x4, 8 foot, or 9 foot stud, they
10 only care about the grade standards are the same, and U.S.
11 and Canada codes provide for complete perfect substitution.

12 With regards to the Home Depot, Lowes, Menards,
13 the biggest retailers of lumber in America, we sell them
14 all. A lot of their quotes are just "wood." You pick the
15 specie that you want to ship us. That's all we care about.
16 2x4x8 foot.

17 MR. SWANSON: We produce both studs and dimension
18 lumber, and we find in the marketplace that it's totally
19 substitutable for SPF. We produce Doug Fur dimension
20 lumber, and we constantly battle with different species in
21 the marketplace. And the same thing with studs. Any specie
22 will work.

23 MS. DAUZAT: We can also cut studs, and we
24 directly compete. Treating market is the only area.

25 MR. BANAHAN: We see substitutability on

1 industrial grade, stud grade, plate stock, whether it's used
2 for construction or remodeling. It doesn't seem to matter.
3 The customer is more concerned about whether the suitable
4 use of the product, will it do the job they want it to do?
5 Does it meet the building code requirement? That seems to
6 be the only real distinction between one specie and another.
7 And for the most part, they're totally interchangeable.

8 We compete against several varieties in Eastern
9 White Pine species, and we also do in Spruce against Hem
10 Fur, Southern Yellow Pine, Doug Fir. So a high level of
11 substitutability.

12 MR. ROADY: Yes, I agree with you. We cut the
13 exact same. But we're a random-length mill and a board
14 mill. I can answer it in the same way, the question that
15 was asked before about price, and I was somewhat facetious
16 going to say the Canadians set the price because that's
17 what, the very thing our whole sales department--I'll
18 refrain from taking that up.

19 (Laughter.)

20 MR. YOCIS: This is David Yocis. If I could just
21 maybe just add to what they've said. I think you have to
22 distinguish between two different types of U.S. producers.

23 One is you have U.S. producers who are producing
24 exactly the same species as Canada. That's SPF. That's
25 most of the Western species, Douglas Fir, Hem Fir, Cedar,

1 you also have Eastern White Pine, you have other species
2 that are produced in Canada and produced in the United
3 States.

4 And I said at the beginning of my remarks that
5 for lumber of the same species, grade, and size, if you're
6 talking a 2x4 SPF, a 2x4 SPF is a commodity product. It
7 doesn't matter whether it's produced in Maine or in Quebec
8 or in Alberta or in Montana. It's a 2x4 SPF.

9 Now if you are a customer and you need a 2x6, a
10 2x4 isn't going to help you. If your building code requires
11 that you have Grade 2 lumber, Grade 3 lumber isn't going to
12 help you. So in that sense, not every lumber product is
13 perfectly substitutable of every other lumber product.

14 But for the species, and the sizes and the grades
15 that are produced in both Canada and the United States, I
16 think it is fair to say that they are commodity products
17 that are sold primarily based on price.

18 Southern Yellow Pine is a little bit different
19 because it does have some different properties. It is
20 marketed differently. Southern Yellow Pine is
21 interchangeable with Canadian species for some applications.
22 That was the testimony that we heard earlier. And you see
23 in the record that's already before you instances of
24 Southern Yellow Pine losing sales to Canadian lumber because
25 for some applications they are interchangeable.

1 There are, as Ms. Dauzat said, other applications
2 where they are less substitutable, treated applications for
3 example. But even there, the overall price level is set in
4 the marketplace. And the overall price level is set in part
5 through the competition to those customers who are able to
6 switch, and who are indifferent to whether they buy SPF or
7 Southern Yellow Pine based on their local delivered price.

8 So I think it's a --- for the species that are
9 directly the same, it is much more like a commodity product.
10 For Southern Yellow Pine, it's a little bit different but
11 still substitutable enough that there are price effects.
12 And price effects of imports on the entire Southern Yellow
13 Pine market, not just the segments where there's direct
14 head-to-head competition.

15 MS. TURNER: Let me ask a more specific question,
16 which was a question that--though you're lumber mill
17 producers and not actually home builders, and we'll hear
18 from the home builders in the afternoon, so I was going to
19 ask them that question, but I think maybe it's also
20 appropriate since you're from different regional areas. And
21 I've got to say that I'm going to indicate that it was a
22 question actually asked by a Commissioner at the 2002
23 hearing in this case.

24 And she asked actually each--because I realize
25 you are from Oregon, Idaho, Maine, Florida, Mississippi,

1 Georgia, and Montana, so you're from a wide range, and sell
2 into Chicago as a main market area. So let me just ask
3 very, very specifically of five different applications in
4 the framing of a house.

5 And that is, floor joists. What typically in
6 your area is used for floor joists? What is used for wall
7 framing, headers, and trusses? And if you could indicate to
8 me for those four products --- floor joists, wall framing,
9 headers, and trusses--what is the type of lumber that in
10 your region is used for that product? Meaning, Southern
11 Yellow Pine, SPF, Douglas Fir? What typically is used?

12 MR. MILLER: Andrew Miller --- in my region I
13 also can speak, because I travel and I walk job sites in
14 other parts of the country. With regards to wall framing
15 all species are used. You can go into jobs. You can go
16 homes where there are four different species in the same
17 wall. They're all just 2x4 8-foot stud grade or number two
18 grade, depending on what the contractor -- you know the
19 architect has specified for that structure and meets the
20 code requirements, so it's all species and it's all based on
21 what the best price was that was bid for that job.

22 MS. TURNER: So you're saying that, basically,
23 it depends on what the availability of a product is for
24 header, for the trusses.

25 MR. MILLER: I'm primarily familiar with wall

1 framing.

2 MS. TURNER: Okay, so basically, the
3 wall-framing studs.

4 MR. MILLER: I can speak to, at least, the
5 Pacific Northwest jobs I walk you see everything. Again,
6 it's based on oftentimes what the architect has specified,
7 to some degree it's the developer cost part of the equation
8 and in some cases it's code, but with regard to headers and
9 floor truss we make solid sawn beams that are often used for
10 headers.

11 Some applications you'll see a solid sawn beam.
12 Sometimes you'll see laminated beam, sometimes an engineered
13 wood beam.

14 MS. TURNER: But that's not going to be --
15 that's not a softwood lumber.

16 MR. MILLER: They're all made from softwood
17 lumber.

18 MS. TURNER: What species?

19 MR. MILLER: Species, Douglas fir, Hemlock,
20 Spruce, you name it. Some cases they'll nail 2x6 studs
21 together to make a 6x --

22 MS. TURNER: Right.

23 MR. MILLER: And a lot of it, if you talk to a
24 builder interested in what the homebuilders say, it's
25 largely driven by price as where you've got to meet a

1 structural code, but you can make a structural quote in
2 often cases for regard -- say a header in a garage door by
3 nailing together 2x6 dimension lumber and make an 8-inch
4 deep beam or you could do it using the same laminated beam
5 and it's really a matter of price, but it uses all different
6 species. They're all interchangeable.

7 MS. TURNER: Okay. And that's primarily up in
8 the Northwest as well as Chicago areas where you're most
9 familiar?

10 MR. MILLER: I see it in Phoenix. I see it in
11 Denver. I see it in Chicago. I see throughout Texas.
12 Texas, you name it, I think they'd frame with straw if they
13 could. I mean it is the most competitive, lowest-cost
14 market and they use anything and it's all price.

15 You go to a developer in Texas and you ask him
16 you get a lot "I don't care." Just give me wood and give it
17 to me cheap. You hear that again and again from builders in
18 Texas that are customers.

19 MS. DAUZAT: In the Southeast as well, I see
20 everything. Well, I see SBF and southern yellow pine
21 primarily in the framing and truss market.

22 MS. TURNER: But is there a difference between
23 -- has there been a change between the fact that in the past
24 you might've had just southern yellow pine in your area or
25 is it more that they're used interchangeable now? Is there

1 a preference for -- you noted that change on trusses that
2 the company had moved from --

3 MS. DAUZAT: That was strictly on price. I mean
4 the customer told us they were getting the cheaper Canadian
5 wood, so they changed to Spruce based on that.

6 MS. TURNER: And not structurally because the
7 yellow pine might be stronger than SPF?

8 MS. DAUZAT: No, we contacted them this week
9 just said how are things going? Can we sell you anything?
10 No, your price is much higher, but we want to use you when
11 prices get back in balance.

12 MS. TURNER: Name?

13 MR. BANAHAN: So we sell product from Maine all
14 the way down to Florida, so I see regional differences. In
15 Maine, typically, for floor joist and rafters you'll see a
16 mixture of engineered wood, typically, I-joist or solid
17 sawn. That's usually driven by price. If the price of 2x10
18 is depressed for solid sawn, they'll switch and they'll use
19 2x10 solid sawn. If the price of 2x10 goes up dramatically,
20 they'll switch and they'll use some engineered wood. Some
21 builders just have a preference to use or another. It's
22 usually a mixture.

23 Typically, for wall framing, you're going to see
24 a mixture of all Spruce, both Canadian and U.S. Spruce for
25 the walls, for studs and plates. As you move further down

1 the coast, you get into the Middle Atlantic markets and now
2 you see a mixture of southern yellow pine and spruce, all
3 the same differences with engineered wood.

4 You get into the Atlanta market, which is
5 they'll build with anything. You then they frame a lot with
6 actually using No. 3 low-grade lumber and a mixture of that
7 and engineered wood and finger-jointed studs, so there's
8 some regional differences on how people build, but it's
9 typically driven by price and we see a high level of
10 substitutability. It's just in the case of Maine you're
11 further north. We're located right there. Our product is
12 very well priced in that area where it would cost a lot to
13 ship southern yellow pine all the way up.

14 So it's price driven because it's a very
15 freight-sensitive product. The further you ship your lumber
16 the higher your cost is because of freight, but we still see
17 Canadian spruce 3,000 miles away in Florida and it's really
18 about a delivered price and what their specific preferences
19 are for building.

20 MR. SWANSON: We have the same experience in the
21 wall framing as Andrew Miller. Complete substitutability
22 between Douglas fir or white fir, hemlock, SPF. We do not
23 see selling yellow pine in our region, simply from a freight
24 perspective. At our Dimension mill we also sell primarily
25 Douglas fir and a lot of it goes into trusses and it's an

1 engineered system so that the truss manufacturer has to take
2 the stress rating of each piece of lumber to accomplish the
3 span ratings they need to do, so we sell both visual grade
4 green Douglas fir. We sell visual grade dry Douglas fir and
5 we sell machine stress-rated dry products as well and we
6 compete directly with Douglas fir that is produced at
7 British Columbia.

8 MS. TURNER: Mr. Roady.

9 MR. ROADY: As a generality, we sell heavy Doug
10 fir, in large, for the floor joist and the trusses. Then
11 the white woods, whether it's the alpine balsam or the
12 spruce lodgepole a lot of times for the interior studs, but
13 it is somewhat regional. And we're a very old company, so
14 we've had customers for 75 years. When you go across the Ag
15 Belt in the Dakotas, Minnesota, Nebraska, Iowa, they love
16 our white wood, so they buy white wood, which is spruce and
17 instantly they tell us what the Canadians will sell it for
18 and we have to either join the crowd or -- it's all species,
19 price driven, but somewhat regional too, preferences.

20 MS. TURNER: One more question more for the
21 industry is -- and my understanding is that southern yellow
22 pine is what is used -- is pressure treated. Is treated
23 basically for as pressure treated and that SPF, generally,
24 is not or Douglas fir or any of the other. It's primarily
25 southern yellow pine that is.

1 First of all, am I correct in that? And
2 secondly, has that changed at all?

3 MS. DAUZAT: Southern yellow pine is primarily
4 the treated product, yes, but we also, as I said, we have
5 framing and trusses as well.

6 MR. MILLER: You know the southern yellow pine
7 market is a very large market in terms of treated, but when
8 you move west of the mountains, Denver west, the principal
9 species is hemlock and we also do treat Douglas fir.

10 MS. TURNER: Okay.

11 MR. MILLER: And the reason we don't treat pine
12 out there is a cost issue, just the cost of freighting the
13 pine. Depending on relative prices, you'll see pine leak
14 into the Western market, treated pine competing with treated
15 hemlock and white wood species.

16 MS. TURNER: So it's not a technical issue where
17 you can't treat actually -- the product doesn't treat as
18 well or take the treatment as well.

19 MR. MILLER: I'm not a wood technologist, but I
20 believe that you know just observing is that white wood
21 species treat adequately and that it is what we sell to big
22 treaters along the West Coast and it obviously meets their
23 needs and the customers' needs. Southern yellow pine treats
24 well and I couldn't answer your question about spruce.

25 MS. TURNER: I know from a practical perspective

1 if I go to Home Depot and go buy a treated 2x4 it's going to
2 be southern yellow pine and it's probably going to be SPF if
3 I'm not just getting a non-treated one and I was wondering
4 why the reasoning for that was in this area.

5 MR. BANAHAN: Cell structure for southern yellow
6 pine takes treatment a lot better.

7 MS. TURNER: So it does, okay.

8 MR. BANAHAN: so it treats more evenly across
9 the whole board, whereas, spruce doesn't accept the
10 treatment as well. We do see up where we are people buy a
11 lot of red pine for treating because it does take treatment
12 and red pine is allowed in the SPF grade. I think,
13 typically, in Quebec they do sell a lot of red pine as
14 treated instead of southern yellow pine because they don't
15 have to pay the long-term freight of southern yellow pine.
16 So there are some regional differences and some species
17 differences on what does accept and what doesn't.

18 Typically, hemlock, red pine, and southern
19 yellow pine are the three that are treated most often.

20 MS. TURNER: That's very helpful. Thank you.

21 These are a little bit more for the lawyers. In
22 the 2002 lumber determination -- this is a clarification --
23 the Commission defined the domestic industry as consisting
24 of all U.S. softwood lumber mill operators. That was on
25 page 16 of the publication.

1 You've proposed for the Commission to define as
2 single domestic-like product coextensive with the scope and
3 on page 31 of the petition suggest to the Commission that
4 they define the same domestic-like product definition as
5 they did in 2001. The scope does not include logs or
6 timber, though. And on page 3 of the petition you indicate
7 that the petitions are submitted on behalf of the U.S.
8 softwood lumber, which is the domestic-like product workers
9 who produce U.S. softwood lumber as well as the forest
10 landowners.

11 And so my question for you is are you proposing
12 that the domestic industry also include the landowners? And
13 if so, can you please discuss the basis for that.

14 MR. YOCIS: Sure, I can answer that.

15 We're not proposing that landowners be defined
16 as part of the domestic industry. There are certainly
17 landowners who have an economic interest in this issue for
18 the reasons that I mentioned earlier because of the
19 interrelationship of lumber and timber market. And there
20 are members of the petition who are not softwood lumber
21 producers, but who are forest landowners. However, the
22 majority of the Petitioner, just in terms of a standing
23 question, a majority of the Petitioner is made of softwood
24 lumber producers and we are proposing for purposes of the
25 Commission industry determination that it be the producers

1 of the domestic-like product, which will be softwood lumber
2 producers.

3 MS. TURNER: Thank you for that clarification on
4 that.

5 Please, you did not that you weren't proposing
6 that any members of the domestic industry that are related
7 parties be excluded from the domestic industry, but the
8 Commission will have to go through an analysis regarding
9 those. So in your post-conference brief if you can provide
10 some more elaboration regarding some of the related parties
11 and as for why you don't think it's warranted to exclude
12 them as opposed to a more blanket -- because we will have to
13 discuss that as part of our analysis.

14 MR. YOCIS: That's fine. We'll be happy to do
15 that.

16 MS. TURNER: Thank you.

17 Some of these might be asked a little bit more
18 by some of my colleagues as well, but this has to do -- and
19 John might ask for a little more detail on some of the data
20 sources to be looking up, but in particular, if you could
21 actually also indicate in your post-conference brief discuss
22 the best indicators and data sources for the Commission to
23 consider regarding demand for softwood lumber.

24 Housing starts are usually the one that the
25 Commission often uses, but there are some others that the

1 Commission has looked at. And if you can elaborate on which
2 of those you think are the best sources for us to look at
3 not only demand during the current period of investigation,
4 but also into the imminent future and provide that. That
5 might be something that might be more in Susan's area, but
6 if you can -- and if you want to discuss it now that's fine
7 as well.

8 MR. YOCIS: That's fine. We can discuss that in
9 the brief. That's not a problem.

10 MS. TURNER: A large component, of course, of
11 the discussion by the industry is difference in the system
12 between the U.S. and the Canadian system regarding the
13 lumber -- not lumber, logs, timber, how the timber is
14 prices, the subsidies that are involved, basically, for the
15 Canadian industry.

16 The Commission, if it is a threat investigation,
17 must look -- is told to look at subsidies, but is told to
18 look at specifically -- to look at a subsidy described in
19 Article 3 or 6.1 of the Subsidies Agreement. So if you can
20 elaborate a little bit more, and again, this can be in the
21 post-conference brief, but elaborate a little bit more on
22 exactly what the Commission should do with the information
23 and what you propose the Commission should do with any
24 information that it gets from Commerce regarding the
25 subsidies because we've heard this whole discussion of how

1 the subsidies do play such a large role, but how is the
2 Commission supposed to be looking at that as opposed to how
3 Commerce is looking at that.

4 MR. YOCIS: We can certainly reflect on that in
5 the post-conference brief. I would say just a couple quick
6 things. So in Article 3 of the Subsidies Agreement means an
7 export subsidy or an import substitution subsidy and that is
8 technically not what we have here, at least that's never
9 been the finding because the Canadian mill buys a lot at the
10 same price whether they export to the United States or
11 export elsewhere or sold domestically within Canada.

12 However, the Canadian industry is largely export
13 oriented and during the period of investigation, at least
14 currently, I don't know about the whole period; but
15 certainly currently, more than 50 percent of their
16 production is exported to the United States. And so there
17 certainly is an impact of the price structure that the
18 Canadian mills face that is very different from what the
19 U.S. mills face and that certainly affects the way Canada is
20 able to compete over time.

21 I'm not sure that how much of that factors in
22 directly into the type of analysis that the Commission does
23 where the Commission is looking essentially at the affect of
24 the imports as they are priced and the Commission is not
25 particularly concerned about why they are priced the way

1 that they are.

2 In terms of how the industry perceives the issue
3 it's, I think -- the industry perceives it much more
4 holistically than the way the statute divides
5 responsibilities between Commerce and the ITC, but we can
6 certainly reflect a bit about on how specifically these
7 factors can be taken into account if they should be by the
8 Commission.

9 MS. TURNER: Thank you. That would be helpful
10 too. And in a similar -- there is a lot of discussion in
11 the petition about critical circumstances, but primarily
12 that discussion really relates to how Commerce would make
13 because the petition is, of course, to both the Commission
14 and Commerce, so I understand why; but there really is
15 nothing as to if Commerce does make a critical circumstance
16 finding then what the Commission should do with that. So
17 that would be something as well if you can elaborate on what
18 it would be and what the Commission should look at in terms
19 of the levels to determine that a critical circumstances
20 finding for the Commission's purposes is warranted.

21 MR. YOCIS: We'd be happy to look at that. It's
22 not my place to ask you a question, but is that something
23 that the Commission would consider in the preliminary's
24 phase or would that be something that would be looked at
25 more in a final investigation if Commerce were to make

1 findings?

2 MS. TURNER: It would give us an idea of what
3 you're looking for, for the Commission to make that decision
4 and gather the information that it needs to, so that's why
5 I'm asking the question.

6 MR. YOCIS: Okay.

7 MS. TURNER: But you're right, being in a prelim
8 it's going to be a lot less than it would in any final.

9 MR. YOCIS: Okay, that's fine. That's helpful.
10 Thank you.

11 MS. TURNER: And I think with that I'm pretty
12 much -- I think any of the data questions that I was going
13 to ask I think my colleagues will probably ask, so I'll stop
14 talking before I start coughing. My cold doesn't seem to
15 dissipate.

16 So anyway, thank you very much for your answers
17 to the questions and coming here today.

18 MS. HAINES: Mr. Benedetto.

19 MR. BENEDETTO: So thank you all very much for
20 coming here today. If any my questions touch on anything
21 that's business proprietary, please just say so and you can
22 follow up in the brief.

23 Could you please describe a little the market
24 for who buys most of the softwood lumber that you produce?
25 And what I mean is if you can say here what shares retailers

1 like Home Depot, what share is smaller retailers, what share
2 is dealers or distributors or are there any sales on
3 exchanges or what share goes directly to homebuilders or
4 anything like that?

5 MR. MILLER: Andrew Miller.

6 It's a complete mix of everything from
7 wholesalers to retailers to local yards to people that just
8 sell wood off of the telephone and they have remote
9 inventories, office wholesalers, I mean regional
10 distributors. I think there's probably some data on how
11 that all works through the system on a national basis.

12 We sell the majority of our construction-grade
13 lumber to big retailers, mainly, to Home Depot. We sell all
14 our low-grade lumber to a whole array of brokers and
15 distributors around the West.

16 Before the Home Depot came on the scene, I
17 believe between them and Lowe's and Menards, they maybe
18 consume about 10 percent of softwood construction-grade
19 lumber, which doesn't include all the engineered or
20 low-grade lumber. We used to sell pretty much you know just
21 regional distributors and wholesalers.

22 MR. BENEDETTO: Anyone else?

23 MR. SWANSON: We don't have a contract with any
24 of the large box stores. The bulk of our wood goes to
25 stocking distributors and to what we call pro dealers where

1 they're selling primarily to homebuilders.

2 MR. BANAHAN: We try to have a balance of some
3 big box, some pro build, big type, so we try to have a
4 healthy mix of all of those segments in the market in terms
5 of -- you know have some industrial customers, have some
6 retail buying group type customers so we can deal with most
7 of the mom-and-pop retailers as well as then the bigger
8 pro-type yards. You know the Pro Builds, the 84 Lumber, the
9 guys like that, and then some of the big box business. So
10 you have a nice healthy mix so if one segment goes down
11 you're balanced out because of the other segment. So I
12 think kind of a diverse approach is probably the approach we
13 take and we like to have a nice spread of all those
14 combined.

15 MR. ROADY: I'd say as a rough estimate maybe 25
16 to 30 percent of ours is sold to retailers. And when I say
17 that, they might have eleven stores, two stores and some of
18 that is simply because we've been in business a long time
19 and been selling to them since their grandparents owned
20 those stores and the rest we sell to bigger wholesalers. We
21 do not sell to box stores and that's on purpose.

22 MS. DAUZAT: We also don't sell to box stores.
23 Remanufacturers, pallet manufacturers, treaters, it's just a
24 good mix. I don't have exact percentages on the top of my
25 head.

1 MR. BENEDETTO: Thank you very much. Anyone
2 else on that?

3 Did the building code requirements you were
4 talking about do those come from the state or county or the
5 city? Where do your building code requirements typically
6 come from? And you said that the building code requirements
7 set a lot of what your customers were looking for. Would
8 you be able to add a few, maybe, to the post-conference
9 brief that you put in so that we can see examples of those?
10 Who does set them and what do they typically say; if you
11 could elaborate a little on what they said that would be
12 great.

13 MR. MILLER: International Construction Code,
14 it's an ongoing coding body that covers all building codes.
15 So you're talking about structural codes, energy, plumbing,
16 electrical, and they update them, I think, on a three-year
17 cycle. They're different components to the ICC and then
18 they're adopted locally, local building codes. And local
19 building codes have some leeway as to whether they adopt or
20 modify or grant exemptions and those are based oftentimes on
21 local conditions.

22 MR. BENEDETTO: Yes, if I could see something
23 that says you can use spruce pine, fir, or southern yellow
24 pine or something like that.

25 MR. MILLER: Typically, the codes don't

1 specific. They want an outcome, so a structure that meets a
2 certain requirement in terms of strength or fire rating and
3 so the building codes don't specific species or even size.
4 They're not prescriptive. They're outcome based, so that's
5 why there's so much interchangeability between species and
6 different types of building materials. Particularly, wood,
7 as long as you meet the structural strength requirements,
8 they don't care what the grade stamp is in often cases.

9 MR. BANAHAN: Probably one of the reliable
10 places to look for that is when the architects spec a job,
11 they'll spec southern yellow pine number two, Doug fir, SPF,
12 as all acceptable species, and those are readily available,
13 and I believe they're going to be, you know, in the packet.

14 MR. BENEDETTO: Next question. As you all know,
15 we asked for very detailed pricing data in our
16 questionnaires. I'm wondering if this does go to a final,
17 would the pricing data, since you've said that a lot of the
18 species are interchangeable, would we be able to improve the
19 pricing data if we didn't specify very specific species in
20 that pricing data section? Could we combine different
21 species there, and we asked for data on a very specific
22 day. Is that also necessary, or can we combine all the data
23 in a month together?

24 MR. YOCIS: Let me maybe start by just framing a
25 couple of things that maybe some of our industry people can

1 fill in on some of the details. I think in terms of
2 comparing over time is perhaps an easier question. Lumber
3 prices change very, very quickly, and perhaps some of our
4 witnesses can give you some examples of that.

5 But you'll frequently see, for example, in the
6 published industry publications like random lengths or
7 Crow's or any of the other sort of industry publications,
8 they'll say, you know, prices were strong on Tuesday, but
9 they collapsed on Thursday or vice-versa. And so if you're
10 looking at, you know, well if you sold on Tuesday and you
11 sold on Thursday and you're comparing those two prices, that
12 may not be apples to apples and, you know, one of the
13 questions is you may get more hits, but you'll get the, you
14 know, the questions what's the signal to noise ratio in the
15 data that you're getting, you know.

16 Are you getting actual head to head competition,
17 or are you just measuring the fact that the sales were on
18 different days? So I think that's one of the issues that
19 you have. One of the other issues that you have is that
20 even if the same species are interchangeable, there may be
21 some -- because of regional preferences there may be the
22 price point at which -- at which a particular sale is
23 deemed to be competitive may be different.

24 So for example, maybe Steve, if you maybe, maybe
25 you would be able to give some more detail on this. So Mr.

1 Swanson mentioned earlier that his firm, his company was
2 selling white fir studs to the Phoenix market, and the
3 customer there decided because SPF was \$50 per thousand
4 board feet cheaper, it was better to switch to SPF even
5 though they preferred -- even though they had a preference
6 for the white fir, they would take SPF at a \$50 price gap.

7 I don't know if that customer would say well,
8 the \$20 price gap by preference, you know. I would still --
9 I'm willing to pay \$20 more for white fir. I'm not willing
10 to pay \$50 more for white fir. So if you've got that kind
11 of competition going on, mixing species might or might not
12 be informative in terms of whether the two different
13 products are being sold at a competitive price, or which one
14 is really higher than the other.

15 So I think that's one of the difficulties that
16 you have in broadening the comparisons. Yes, you would have
17 more -- you would have more matches, and actually I think
18 this time we'd probably have more matches than we've had at
19 any time in the past, and we didn't have a lot of matches
20 this time so far from what I've been able to see from the
21 confidential data that's been released.

22 But that's sort of part of the nature of this
23 market. I don't know if anybody else wanted to jump in on
24 some, maybe provide some more detail on some of those
25 points.

1 MR. SWANSON: Well speaking specifically of the
2 Phoenix market, we are one of the few mills that segregates
3 white fir from hemlock. So the grade stamp would say "hem
4 fir," but in our case, even though we stamp it "hem fir," it
5 is virtually exclusively white fir, and that typically
6 commands a premium because that particular board accepts a
7 nail better, accepts a screw better, has less warp and
8 twist.

9 But in the case that I cite, the customer had
10 been calling us on a regular basis. We had transacted
11 business over years and years, and they finally said we just
12 have to switch to SPF because it's \$50 a thousand cheaper.

13 MR. BENEDETTO: Thank you all, and then could
14 you elaborate a little bit more about the importance of
15 grade? First of all, just for the record, who determines
16 the grade, when do you decide when to sell one grade versus
17 another, and just -- I think you said this, but just to
18 confirm that both the U.S. and Canada make all the grades
19 and compete in all the grades; is that correct?

20 MR. MILLER: Yes. The grades in the U.S., which
21 I think are pretty much identical to Canada, is set by the
22 American Lumber Grading Standards, and it's actually I
23 think a group that's housed within the Department of
24 Commerce. So and that ties into the building codes. So
25 they do all the testing requirements, so the stamp that we

1 put on lumber is driven by ^^^^ and it's made up of a lot of
2 regional grading associations from around the country and
3 Canada, so it's -- that's how grades are set.

4 MR. BENEDETTO: Anyone else have anything to add
5 to that?

6 MR. BANAHAN: A typical dimension mill will
7 produce 75 to 80 percent high grade. So one or two grades.
8 Those are combined together, called two or better, and about
9 25 to 20 percent low grade, which would be number three and
10 number four. Then as in between, there's stud grade if
11 you're running a stud mill. But for a dimension mill, like
12 we run two dimension mills, we're getting 80 percent high
13 grade. So and we run our lumber all through auto grading
14 systems, computerized auto grading systems.

15 So there's no manual grading anymore. It's all
16 done using computer technology. So it's determined within a
17 very tight variance of whether it's one and two or it's
18 number three.

19 MR. MILLER: When it comes to lumber grades, the
20 two principle determinations are the knot sizes and how the
21 knots run through the piece of wood that affects its
22 structural integrity, and then some degree what they call
23 wane, which is whether the board is square or has a slope to
24 it because you're picking up the exterior round portion of a
25 log.

1 So those standards apply to all of us, but
2 basically the lumber grading standards, you know, it's a
3 natural resource that comes from a log. So but most of the
4 mills across America, if you look at our grades, they're all
5 within a fairly narrow range because they all meet the
6 structural requirements of these grades.

7 MR. BENEDETTO: And in Canada?

8 MR. MILLER: Yeah, by specie, yeah. I mean you
9 see -- I mean there's some minor variations, but those
10 numbers he quoted about two and better versus three and four
11 grades are pretty common numbers you see across North
12 America.

13 MR. ROADY: We may all belong to different
14 respective associations on grading, but either side of the
15 border you still would have the same grades that come out of
16 those trees.

17 MR. BENEDETTO: How important is the replacement
18 market compared to the new home market, if you know that? I
19 know you may not deal directly with the home builders, but
20 do you know, is the replacement market a much smaller part?
21 That's my impression.

22 MR. MILLER: No. You know, I guess it's
23 probably a data set. But certain organizations that
24 forecast wood products demand. It's actually the
25 consumption of construction grade lumber is, up until

1 recently was, as they define it, repair and remodel, which
2 you know, there might be a bit of a loose definition but
3 actually more construction grade lumber was consumed through
4 that channel than the new construction market.

5 But there's some definitional issues. But it's a
6 very sizeable market. Obviously that was -- that market
7 tends to be, you know, pretty stable and as home building
8 consumption increases and consumption increases in that
9 market, obviously the ratios change. Same thing with the
10 low grade market, which we often call the industrial
11 market, pallets, all kinds of industrial uses of wood.

12 That tends to be a relatively stable number
13 driven by a whole factor, you know, industrial activity,
14 non-residential construction.

15 MR. BENEDETTO: Is there any difference in the
16 lumber demanded, either the amount demanded or the type
17 demanded for multi-family housing versus single family
18 housing? In other words, if there was different trends and
19 how much new housing starts are in each of those sectors?
20 Would that affect you at all?

21 MR. MILLER: I think it affects the overall
22 demand of lumber, because board footage in a, you know, unit
23 up for multi-family ^^^^ multi-family units consume less
24 overall volume of wood products across the board, whether it
25 be, you know, wall sheathing or engineered products or

1 construction grade lumber. Just it's the size issue, just
2 the scope of footage footprint of multi-family unit versus a
3 single family house.

4 MR. BANAHAN: I think U.S. Housing Starts breaks
5 it down into how much is actually multi-family and how much
6 is single family. Our recovery since 2009 has been led
7 primarily by multi-family structures. That's where most of
8 the increase came from. Now we're finally seeing single
9 family homes increasing a little bit, but it's been really
10 predominantly multi-family.

11 MR. BENEDETTO: And the last question. Mr.
12 Swanson, you talked a little bit about timber exports to
13 China being a new development that we haven't seen in past
14 cases. Could you elaborate a little bit on that? I'm
15 wondering, do you expect this to continue, and if you could
16 talk a little bit about how large an effect that's been?

17 MR. SWANSON: There are significant log exports
18 off of the U.S. west coast to China and to a smaller degree
19 Japan. Japan has been more of a steady market, and they
20 take a higher grade log. China has been a more recent
21 entrant into the marketplace. They were fairly significant
22 in the marketplace in 1995, and then they retreated, and
23 then really came back five or six years ago.

24 While the export is not as significant off the
25 west coast today as it was even two years ago, it's still

1 significant and it is a source that we would be able to
2 divert those logs to domestic production were it not for the
3 extremely low price of lumber.

4 MR. MILLER: We compete actually a little closer
5 to the export docs where our mills are, and we compete head
6 to head. I mean the large institutional landowners in those
7 areas, you know, that's the best price. A lot of the wood
8 goes into the big ports along the Columbia River.

9 But I could stand to be corrected by Susan, but I
10 believe the export volume, just in the Pacific Northwest
11 going to Asia is about a billion board feet of logs, which
12 is the equivalent of about two and a half, 2.6 billion feet
13 of lumber that could be produced, which would be the
14 equivalent in Oregon and Washington of maybe 12, 15
15 good-sized saw mills.

16 So there's a lot of capacity there from the
17 timber side. It's just the price we could afford to pay for
18 the logs.

19 MR. BENEDETTO: Thank you all very much. I
20 appreciate it.

21 MS. HAINES: Ms. Berry, do you have any
22 questions?

23 MS. BERRY: Thank you. Just one general
24 question for you all and then one follow-up for Mr. Banahan.
25 Can you tell me if there have been any technological

1 improvements in the industry that have allowed some mills to
2 become more efficient over the last 10 to 15 years, even if
3 they're fairly small or marginal improvements, and then Mr.
4 Banahan to follow up on the computer grading, can you tell
5 me how long that's been the industry standard? Thank you.

6 MR. BANAHAN: We installed computerized grading
7 in our mills about eight years ago. We have -- we probably
8 have one of the most modern mills on the east coast. The
9 actual technology has been in use in Europe for probably
10 about 15 years. Ours came from Finland. It's called
11 FINSCAN and it's very accurate.

12 I do know on the west coast, I think some of the
13 other mills here also use similar products that are all
14 pretty much used in a lot of large production facilities
15 now, because it's much more efficient and much more
16 accurate.

17 MR. SWANSON: There have been significant
18 improvements in saw mill technology over the last decade,
19 both in software and hardware. We also use automated
20 grading in both of our mills. One uses FINSCAN and one uses
21 an USNR product, a transverse lumber grader, and we were
22 actually the first mill to put in the USNR product. All of
23 our mills are very state-of-the-art, very technically
24 advanced and, you know, we have very, very good mills across
25 the industry.

1 MR. ROADY: Lots of technology improvements.
2 Most of them are a dream for me, but we have not put in the
3 automated grading yet. It's a matter of time. We've done a
4 lot of research on them. We're still waiting for the next
5 good market to be able to afford to do that. But yes on the
6 technology. There's some great technology out there.

7 MS. DAUZAT: We have some of the most efficient
8 saw mills in the southeast. We have auto grading and have
9 had it probably eight to ten years. We can compete with
10 anyone. We just can't compete with subsidized lumber.

11 MS. BERRY: Thank you.

12 MS. HAINES: Mr. Yost.

13 MR. YOST: I'm not that important, thank you.
14 One mic will do. Thank you very much for your testimony.
15 We're still into the morning. I just have a couple of
16 questions. I have a note to myself to ask about logs, and
17 the first part of that is can you generalize. Do companies
18 own -- the companies that own their own timberlands, are
19 there more of them, less, fewer, I mean the percentage
20 that's going into softwood lumber from company-owned
21 timberlands? More, less, about the same as we saw in the
22 2002 investigations?

23 MS. DAUZAT: I will tell you in the southeast
24 there's less of that. There's not a lot of separation
25 between. But we as a family, we own a little bit of land.

1 We can by no means supply our mills with what we own.

2 MR. YOST: Okay. Anyone else?

3 MR. SWANSON: We have virtually no timberland of
4 our own. We rely on large industrial landowners and to
5 some degree federal programs. Even within the larger
6 companies, there's been a separation between their
7 manufacturing and their timberland holdings. So I think the
8 answer would be there's less and less mills that are passing
9 through their log costs to their lumber.

10 MR. YOST: The companies that do own their own
11 timberlands, if you know, do they mostly use their own
12 timber for lumber, or does it go into other wood products or
13 split? If you can generalize. If you can't at this point
14 or it's BPI, you can -- I welcome further elucidation in the
15 post-conference brief.

16 MR. SWANSON: I would just be guessing as to
17 what other companies are doing with their own logs.

18 MR. ROADY: I can only speak really for
19 ourselves. Maybe ten percent of our logs comes off of our
20 own lands. So we're depending on others, and when you ask
21 about logs, when we buy logs that comes from other private
22 landowners that have used other contract logging people.
23 Otherwise, if it's off state or federal or tribal lands, we
24 buy it as timber and then do the logging ourselves.

25 But the dynamics have changed some, say since

1 2002. There's a lot more institutional landowners. The
2 TIMOs, Timber Investment Management Organizations. So those
3 dynamics have changed some. The Hancocks, the Campbell
4 groups, those type of investor institution is what Andrew
5 ^^^^ that's what we refer to them as. So some of that's
6 changed. But the price of those ^^^^ when the market isn't
7 good, they don't sell.

8 MS. DAUZAT: We manage our lands as a separate
9 asset, and want to maximize the value of our land, just like
10 we all of our saw mills so --

11 MS. HESTER: This is Susan Hester for the
12 record. Of the companies that we've worked with, only one
13 sources all their timber from their own lands. It's usually
14 a combination. Some from their own land and then some on
15 the open market.

16 MR. YOST: What Mr. Roady was commenting about,
17 the sort of I guess LLCs that go into timber management or
18 land management. Are they -- is this a relatively new
19 development in timberlands?

20 MR. SULLIVAN: I'll speak to that. I think one
21 of the things that's occurred is that because landowners
22 have such a hard time making a return on their investment,
23 ownership of land has gone to its most efficient means, and
24 I mean these timber organizations that come out. They take
25 pension money, for example, and they buy land and grow

1 timber with that.

2 They have a completely different tax structure
3 than the average non-industrial forest timberland owner, and
4 that's been driven primarily in a move to be more efficient
5 in the ownership of the land because the returns to the
6 timberland are so bad. And so we've seen that time and time
7 again. We watched companies divest themselves of land.

8 They've gone from being fully integrated forest
9 products, saw mills and companies, where they're not
10 efficient. So they have pared their operations down to the
11 bone to focus on one or two things that they do very well.

12 They've given the land, sold it on the open
13 market and these organizations have come together to buy
14 this land and do that management and all the other things as
15 efficient as they possibly can, because that's the only way
16 you can make money in this business today by owning
17 timberland.

18 MR. YOST: And these organizations are
19 independent of the saw mill or the SRO?

20 MR. SULLIVAN: Absolutely. So that's the key
21 difference for a timberland owner is that we depend on the
22 saw mills to buy product, but we have no assurance that
23 they'll even be there or buy it when we're ready to sell it.

24

25 They have no assurance of supply, which is

1 completely different in their book. They have to go into
2 the open market and strike a deal with a landowner. A
3 landowner has to be willing to sell their product at a price
4 that they can make money off of. Otherwise, they'll take
5 the land and do something else with it.

6 And a saw mill has to be able to kind of meet in
7 the middle, and if that doesn't take place, then the saw
8 mill doesn't have raw material and the landowner won't be
9 able to sell the trees. Those two entities are joined at
10 the hip. It requires both of them.

11 MR. YOST: So this is a major change, would you
12 say, since 2002?

13 MR. SULLIVAN: It's occurred over a longer
14 period of time. I mean we watched Weyerhaeuser company
15 divest of three million acres in Stoddard, Georgia they
16 owned. I believe I'm correct; I'll modify that. But I
17 don't believe they own any timberland whatsoever in the
18 state of Georgia anymore. They went from being one of the
19 largest timberland owners to owning zero in just less than
20 10 or 15 years.

21 So that kind of shows you the scope of the
22 industry that we're going through, that massive change in
23 ownership and running these industrial operations.

24 MR. YOST: Thank you for these comments.
25 They've been very useful. How are timber prices set or

1 established? I don't want to say set but, let's leave it at
2 established.

3 MR. SULLIVAN: So first of all it's set when the
4 landowner has a goal or objective to sell timber. So they
5 have to be motivated, and you have landowners out there now
6 for self-interest, for reasons that may or may not be
7 economic to put the timber on the market. But what they do
8 rely on is that when they are ready to sell timber, they
9 broadcast that timber availability into the open market.

10 When I go to sell wood on behalf of a client, I
11 publish that and I invite any mill who has a reasonable
12 chance of buying that wood, regardless of how far away they
13 are, to come and look at the timber I offer up for sale on
14 behalf of the landowner. I do this in the marketplace, and
15 so I'm allowing the market to come to me and to say this is
16 what we're willing to pay for this timber.

17 But at the end, if a saw mill doesn't come to
18 the table and bring a price that the landowner's willing to
19 sell the timber for, then that transaction never takes
20 place. So that's completely -- we have one of the most
21 efficient systems of capitalism in the lumber market there
22 is, because that's just the way the system works.

23 And so it's very price competitive. Demand
24 fluctuates depending on what saw mills want at the time for
25 different products and species. All of those things come

1 into bear. But at the end of the day, it's about price.

2 MR. SWANSON: The large industrial landowner in
3 my part of the world, what we call that is patient money.
4 So it's pension funds, it's groups of investors that come in
5 and make specific purchases with a financial objective in
6 mind.

7 So we go out as the buyer and we bid on
8 specific, identifiable lots of timber, and it can be either
9 we're buying the standing timber, with a right to cut it
10 over a defined period of time, or we may be buying delivered
11 logs, in other words, logs that show up at our gate on a log
12 truck.

13 In both instances, we are competing against
14 multiple other bidders that are -- either they're plywood
15 mills, they're lumber mills, they're engineered wood mills.
16 So everybody's competing, and in every instance, those logs
17 go for the highest return for the landowner.

18 MR. YOST: Is there any implicit or explicit
19 indicator that the landowner looks at, like prices for
20 lumber? Is there any link there?

21 MR. SWANSON: In where we operate, the two
22 markets are truly separated. There's significant demand for
23 the logs. If you don't have logs, you're not going to run
24 your mill. So there are numerous times when we're paying
25 more for logs because we need them than what the lumber

1 market will support, but we have to do that during certain
2 times in order to have continual operation.

3 MR. YOST: So you're inventorying logs at that
4 point?

5 MR. SWANSON: No. We operate more of a just in
6 time process, where we try not to have more than six weeks'
7 worth of logs in our yard at any one time. So we're
8 constantly in the marketplace for logs every single week.

9 MR. YOST: Anyone else?

10 MR. SULLIVAN: Yeah. From a landowner
11 standpoint, the price of lumber does go up. Landowners
12 react to that by putting more supply of timber on the market
13 in response to hopefully getting higher prices for their
14 timber. So absolutely. There's a demand and supply
15 correlation there that's quite efficient.

16 MR. YOST: Mr. Roady, I see you.

17 MR. ROADY: A little different landscape where
18 I'm located, surrounded by mostly federal ownership. The
19 private is very small landowners in general.

20 MR. YOST: I was going to ask next about the
21 federal, federal lands, the bids?

22 MR. ROADY: Well, you heard my testimony where I
23 stay up late at night wondering where my next log's coming
24 from. I meant that sincerely. It's totally undependable,
25 but we're surrounded by trees so it's there. As far as

1 determining price, we just work it backward from what we're
2 able to sell our product for and it's usually behind, you
3 know. The market's either gone up or gone down.

4 When we do an analysis to determine what we can
5 pay to those private or in an agency type, government type
6 sale. A lot of it depends what my neighbor mills might be
7 paying. I mean sometimes you pay way more than you should,
8 just to keep operating. I mean it's that simple, and that's
9 what Steve alluded to.

10 MR. BANAHAN: It's one of the areas where we see
11 a significant difference between the Canadian timber tenure
12 system and the U.S. tenure system, where we don't have a
13 tenure system. But we negotiate prices every six months and
14 bring them in on contract by predominantly Gatewood. But as
15 the market for lumber increases in price, our suppliers, our
16 log suppliers know that and they raise their price to us
17 accordingly.

18 So there's a very direct link between what the
19 lumber market and the log market is doing, whereas in
20 Canada, they've got a locked in price that when that lumber
21 price goes up, very rarely does that log price come up
22 behind it. So we get caught in a price squeeze, even in
23 good markets where we just can't capitalize enough on our
24 good markets to carry us through the entire business cycle.

25 MR. SWANSON: I'd like to speak specifically to

1 federal timber in our region. Whether it's the Bureau of
2 Land Management or the U.S. Forest Service, they both
3 operate in very similar situations. They will advertise and
4 then provide you with a prospectus that gives you an
5 estimate of the volume and quantity and species of the
6 timber sale, and then you are invited to bid on that sale.

7 We will show up at the designated place to bid
8 on a specific timber sale, and there will be six, eight, ten
9 different bidders there, and the government sets a minimum
10 price and then the auction begins. It's competitively bid
11 until somebody -- till everybody quits bidding except for
12 one, and they are then -- the apparent high bidder are
13 awarded that timber sale. So it's very competitive and any
14 qualified bidder can participate in that auction.

15 MR. YOST: Are there restrictions on export of
16 logs from federal timberlands?

17 MR. SWANSON: There is a restriction on the
18 export of logs from federal timberlands in the U.S.

19 MR. YOST: So the description that we had
20 earlier about all these logs going down the Columbia River
21 to Asia are from privately owned timberlands?

22 MR. SWANSON: That's correct. They're from
23 privately owned lands only. So where I operate, about 88
24 percent of the volume that's consumed in our region comes
25 from private ownership, and about 12 percent from federal

1 ownership.

2 MR. YOST: I wanted to ask a question about the
3 changing, changes in the domestic industry. Particularly
4 we're seeing some Canadian names showing up as domestic
5 producers. Is this also a new development, Canadian firms
6 moving south?

7 MR. SWANSON: That is a relatively recent
8 development. It began just before the 2006 Soffa
9 Blumbergen. But it's relatively new.

10 MS. DAUZAT: It is new, and as we were
11 recovering out of the downturn in 2009, in 2012 those
12 purchases accelerated, while we were just getting back on
13 our feet, with enough to reinvest into our mills to make
14 improvements.

15 MR. YOST: Anyone else want to comment?

16 MR. ROADY: I don't have any in our area where
17 the Canadian firms have bought it, because they'll just say
18 Chuck, why would I want to go there and have to pay that for
19 the timber?

20 MR. YOST: Well, if they're operating a U.S.
21 mill, I doubt that they can get Canadian timber, so I guess
22 not to put too fine a point on it. If there's such a lousy
23 market, why are we seeing new entrants? Are they buying --

24 MR. ROADY: Different dynamics in different
25 parts of the country. So I'm in Northwest Montana, and I

1 don't have all this vast private timberland around me. They
2 would have to go to the bid table, as he described, just
3 like I do if they bought a mill there, and they'd have to
4 pay way more for logs than they've ever been used to.
5 They're not going to do that.

6 MR. YOCIS: And I think -- this is David Yocis.
7 I think if you look at where most of the mills have been
8 bought by Canadian-owned companies, they tend to be in
9 areas. There have been a few -- there have been a few in
10 Maine, generally with smaller Canadian companies buying
11 mills in Maine, although that trend existed a while ago.

12 But you have a lot in the south, and a lot of
13 that was triggered, as was said earlier, during the Great
14 Recession, when U.S. industry was having a really hard time
15 raising capital to either keep mills open. A lot of mills
16 closed or a lot of mills were not able to reinvest, and to
17 have a large public company, whether U.S. or Canadian owned,
18 to be able to come in. It was a good opportunity to snap up
19 some assets at relatively low prices.

20 MR. YOST: Thank you very much. Again, I join
21 with my co-workers and colleagues in welcoming you here
22 today, and I appreciate your testimony. That concludes my
23 questions.

24 MS. HAINES: Does anyone have any other
25 questions?

1 MS. TURNER: This is Robin Turner. I just have
2 one follow-up on the supply actually of logs, that in the
3 testimony that significant or in the answering to
4 questions, that significant U.S. log exports, primarily on
5 the west coast are going to Japan and to -- increasingly to
6 China, from that there seemed to be the assertions that it
7 -- that there was logs, timberland logs were in short supply
8 to the mill owners who are more on the west coast, who have
9 to actually get that.

10 But I seem to have gotten the impression, Mr.
11 Sullivan, from your testimony about Georgia and the southern
12 U.S. and being a landowner there, that in fact there seemed
13 to be a excess supply of actually timber and logs in your
14 area. So is there a difference between the west coast and
15 the east coast in terms of the supply of the raw material of
16 timber/logs?

17 Secondly for Mr. Sullivan, if you can also
18 indicate whether you're exporting, I suspect it's not to
19 Japan or China, but basically are you exporting to other
20 countries as well?

21 MR. SULLIVAN: Let me tell you that technology
22 has come into play. When I first went into the forestry
23 business, we would grow about one-third of the amount of
24 wood that we could grow today, just because of the function
25 of genetics and also climate change. We have more CO2 in

1 the atmosphere today than we've ever had, and believe it or
2 not that's fertilizer for all those trees.

3 We store more carbon in our forest today per
4 tree than I ever thought was possible. So it's been very
5 beneficial for us to do that. As far as -- so we have an
6 abundance of supply growing on fairly stable acres, even
7 with a tremendous influx of population moving into the state
8 of Georgia. So we have a lot of dynamics at play.

9 As far as the logs being shipped overseas, we do
10 see some of that going out of the Port of Savannah and
11 other places. But again, the domestic movement of logs is
12 highly dependent on transportation costs. So when you have
13 a cap on what these local saw mills are able to pay for
14 that, then landowners try to figure out where they can send
15 their product to earn the highest return on the timber that
16 they have.

17 Sometimes that market entails being able to ship
18 overseas, but that's a rarity. We don't ship near the
19 amount of timber just because of transportation costs
20 anywhere else. So the answer there is no, we don't have the
21 pressure or the proximity to Asian markets that they do on
22 the west coast.

23 MS. TURNER: But do you -- when you do, the
24 exports that do come from the more east coast or the
25 southwest in particular areas, what markets were you

1 exporting to?

2 MR. SULLIVAN: You know to be honest with you, I
3 don't know. I do know some are floated out of the Gulf
4 Coast and some out of the Port of Savannah, which is in
5 Georgia. Where they go to, I don't know where they're going
6 to.

7 MR. YOCIS: Sorry, I thought it was on. We can
8 provide in the post-conference brief some of the data on
9 log exports. You do see a pretty significant increase in
10 exports of logs to China, even from the U.S. South, although
11 the volumes are much smaller than they are from the west,
12 just because the distance is longer.

13 I think there are two slightly different stories
14 here. I think in the west, the issue is there is
15 competition for the logs. There are enough logs to make
16 plenty of lumber in the Northwest. The issue is given where
17 U.S. lumber prices are, which is certainly affected by
18 subject imports, given where U.S. lumber prices are, the
19 U.S. mills can't afford the international price for the
20 logs, and it's much more of an international price than it
21 was in the last case.

22 In the South, where the international part of it
23 is a little less developed because of the transportation
24 issue, in other places what you're seeing in terms of timber
25 supply is institutional landowners and private landowners

1 during the Great Recession didn't sell timber one, because
2 no one wanted to buy it because there wasn't demand for
3 lumber, and two because the prices that they could have sold
4 it for were so low that they said, as people who wanted to
5 maximize the long term value of their timber, you're only
6 going to harvest once every -- in the South every 25 or 30
7 years; in the North and in Canada, it's even longer than
8 that.

9 So no one wants to sell when the prices are low,
10 and so one of the things that happened is you got a timber
11 overhang from the recession, that took time to work its way
12 through the markets. I'm more familiar with -- personally
13 with Maine, and we can provide the data in the
14 post-conference brief.

15 But in Maine, if you look at lumber prices in
16 2010, '11, '12, went up and timber prices, at least the
17 published survey prices in Maine, the timber prices did not,
18 and that was, you know, because generally the timber and
19 lumber prices, as was testified earlier, generally do move
20 together, and that was sort of surprising.

21 I think precisely because of that overhang,
22 during the recession there was just a lot of timber
23 available, and then once that backlog got worked through,
24 the old relationship came right back, and in 2014 you start
25 to see timber prices come up to match where lumber prices

1 are.

2 It is a process that has begun in the South but
3 is still in process. There's still that overhang from the
4 recession, and I think that goes to one of the points that
5 was raised a few minutes ago or earlier this morning, and
6 we'll probably hear about in a few minutes.

7 If you look just at financial performance in the
8 South, because of the log costs, you know, you might say oh
9 gee, why is there injury? But the real issue here is being
10 able to compete and use that timber to produce lumber in the
11 current market, notwithstanding the fact that we're not at
12 the bottom of the market.

13 We're in a higher part. People ought to be able
14 to produce, ought to be able to soak up that timber supply,
15 ought to be able to be selling lumber and building the
16 capital to make the investments for all the new technology,
17 as was asked about before, so that people can be
18 competitive for the next business cycle.

19 That's really what we're seeing, what we're
20 seeing in the South, is still working through that timber
21 overhang from the recession, and we'll try to provide as
22 much of the data as we can on all of these factors in the
23 post-conference brief.

24 MS. TURNER: Thank you. That's actually been
25 very helpful because I did -- it did seem like there was

1 definitely a difference between what was going on on the
2 west coast in the timber versus the -- not just because of
3 federal lands, but because of actually the competition from
4 Japan and China. So thank you very much.

5 MR. SWANSON: Could I elaborate on one of my
6 responses?

7 MS. TURNER: Sure.

8 MR. SWANSON: One of the questions I believe
9 that Mr. Yost had asked was can logs from federal sources in
10 the U.S. be exported, and of course the answer is no. That
11 is a system that's also in place in Canada. They don't
12 allow the export of logs from their provincial or federally
13 owned lands. Here in the U.S., though, the private
14 landowner can sell to anybody he wants at any time.

15 That's in contrast to what happens in Canada.
16 The private landowners in Canada have the ability to export,
17 but there are significant restrictions involved. I have
18 gone to Canada myself. I have bought logs right off the
19 Frazier River, and bought those down to my operations in
20 Oregon. But the difference is I can be the high bidder on a
21 segment of logs, on an advertised volume of logs in Canada.
22 But they have to wait for a specified period of time. Any
23 local mill can block the sale to me, and all they have to do
24 is say I want those logs.

25 They don't buy them at the price I was willing

1 to pay for them. They buy them at the provincial
2 administered price. So the landowner in Canada, the private
3 landowner is forced to sell his logs for less money than I'm
4 willing to pay for it, if a mill simply says I want those
5 logs. That's the big difference.

6 MR. BANAHAN: In Maine, we have a kind of unique
7 situation occurring. We're surrounded by Maritimes on one
8 side and Quebec on the other side. A lot of subsidized
9 mills from the Maritimes in Quebec come into Maine and buy
10 logs at an elevated price. They're getting 70 percent of
11 their logs from the Canadian government, the 30 percent from
12 open land. They'll come in and outbid us for our own logs.

13 So we actually have a log shortage, and it's due
14 to Canadian subsidized mills being able to overpay for our
15 logs. It's very, very frustrating. You sit at the mill
16 yard and watch truck after truck after truck going across
17 the border to be processed into lumber, and then it comes
18 right back and gets shipped back to our customers.

19 MS. HAINES: Any other questions? No. Well,
20 thank you for the entire panel for traveling this far in
21 this cold weather. This was extremely helpful. We'll take
22 a 15 minute break, and then have the other panel come
23 forward.

24 (Whereupon, a short recess was taken, to
25 reconvene this same day.)

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AFTERNOON SESSION

MS. HAINES: Okay, I think we're about ready to start, if the panel would like to proceed.

(Pause.)

Alright. Welcome. Please start.

STATEMENT OF MATT NICELY

MR. NICELY: Thank you. Good afternoon, everyone. I'm Matt Nicely of Hughes Hubbard & Reed, appearing on behalf of the Government of Canada. I'm presenting an overview of Joint Respondents' defense.

I am joined by my colleague Eric Parnes and our client Colin Bird, Minister-Counsellor, Trade and Economic Policy of the Canadian Embassy. Jim Dougan is here with us from ECS, along with Kivanc Kirgiz from Cornerstone. Also here with us are various Canadian Industry Association counsel and representatives of the National Association of Home Builders, the buyers from the sawmills.

This is the fifth time U.S. industry has come before you seeking relief from allegedly unfairly traded imports of softwood lumber from Canada. Most recently, in both phases of the Lumber IV Investigation, the Commission based its affirmative determinations solely on the basis of threat of material injury.

The Commission rejected the coalition's claims of current injury, even though Canadian market share at that

1 time was higher, and the U.S. industry was doing far worse
2 than it is doing today, even though the industry had been
3 protected by the 1996 SLA until the filing of the lumber
4 petition, the Lumber IV Petition.

5 This time the Coalition case is far weaker.
6 Through the POI here, the U.S. industry maintained a much
7 higher market share than it held at any time in the Lumber
8 IV POI. Canada's market share increases during the years
9 before the SLA expired were minor, inching up about one
10 point per year but remaining below 30 percent through end of
11 2015.

12 For 24 of the 33 months of the POI prior to the
13 SLA's expiration, prices were so high that no trade relief
14 was triggered under the terms of the SLA. And throughout
15 the entirety of the pre-expiration period, the SLA protected
16 the industry from injury, which several members of the
17 Coalition attested to, including three of the witnesses who
18 testified today.

19 Indeed, the Coalition announced in 2012 that it
20 welcomed the SLA's extension for another two years through
21 October 2015.

22 No matter how you look at it, there is simply no
23 way to conclude that the U.S. industry was injured by reason
24 of imports while the SLA was in effect.

25 We focus, therefore, on the period since the

1 SLA expired in October 2015. Based on the Coalition's world
2 view, one would have thought that in this period of
3 unfettered free trade we would have seen the industry's
4 performance falter. Yet, on the contrary.

5 Despite an increase in imports from Canada during
6 the period, the U.S. softwood lumber industry has seen its
7 fortunes rise rather than falter. U.S. production, up.
8 Capacity, up. Capacity utilization, up. Shipments, up.
9 Profits, up.

10 Every single measure of industry performance
11 relevant to the Commission's evaluation of the condition of
12 the industry has improved since the SLA's expiration.

13 Just a few weeks ago, the single largest U.S.
14 producer of softwood lumber and member of the petitioning
15 Coalition, Weyerhaeuser Company, who by the way is not here
16 today, reported its strongest third-quarter earnings in over
17 a decade, fueled by rising prices and increased output.

18 Look at slide three. The company's wood products
19 division reported increased earnings that were, quote, "the
20 strongest since third quarter 2004 when we operated roughly
21 two times the number of manufacturing facilities we do
22 today."

23 This happened during a period of unfettered free
24 trade when subject imports gained their largest volume of
25 the POI, albeit to a share well below what the ITC deemed

1 non-injurious in Lumber IV.

2 Lest you think we're cherry picking from
3 statements presented to public company investors, even
4 the Petition admits to the industry's post-SLA double-digit
5 operating margins. And aggregated questionnaire responses so
6 far indicate even better improvement than the Petition.

7 Given these facts, the Coalition's current injury
8 case confronts an even steeper hurdle than it did last time
9 around. That brings us to threat.

10 Last time, central to the Commission's
11 affirmative threat determination was its finding that the
12 U.S. industry was vulnerable to future injury, given its
13 depressed financial condition.

14 This time around, the circumstances could not be
15 different. Consider what Weyerhaeuser reported to investors
16 on Tuesday of this week, three days ago, slide four. This
17 shows the growth in housing starts through 2016 and
18 forecasts 1.3 million new starts in 2017. And, look at
19 that, continued growth past 2020.

20 Then look at slide five, which shows the impact
21 such increased housing starts portend for lumber demand.
22 This is from a member of the Petition's Coalition.

23 Importantly, it isn't just Weyerhaeuser that's
24 bullish about the future. When reporting to its investors
25 this week, another leading member of the Petitioner Coalition,

1 Potlatch, also not here, used the following slide to
2 showcase increased housing starts and lumber demand.

3 And rather than complain about any price effects
4 from increased subject imports, Potlatch presented this
5 slide, slide seven, where it says that lumber prices, quote,
6 "Lumber prices are correlated with manufacturing capacity
7 utilization which is increasing."

8 And look what Weyerhaeuser says about pricing in
9 the future. Look how they project prices going up, and how
10 they anticipate Canadian production going down. Neither
11 company says anything about increasing imports from Canada
12 driving down prices.

13 In fact, look at what Potlatch says about Canada
14 on slide nine. The headline is "Canada's ability to supply
15 lumber is constrained."

16 And look at their visual below. It says,
17 "Canada's lumber supply has declined by about 10 billion
18 board feet due to the Mountain Pine Beetle and a reduction
19 in allowable cut."

20 Doyle Simmons, Weyerhaeuser's CEO and president,
21 said it best when he ended this week's Investor Call with
22 "The future could not be brighter."

23 This doesn't sound like an industry that's
24 vulnerable, nor does it sound like they feel threatened by
25 what they depict as constrained Canadian supply. So what's

1 going on? Why are we even here?

2 We're here because this is an industry that has
3 grown accustomed to the perpetual existence of trade
4 protection. It's an entitlement that they've come to
5 expect, and in doing so they take this Commission for
6 granted.

7 Based on the record facts, we respectfully
8 suggest it's time for the Commission to just say no to the
9 Coalition's overreaching.

10 Conditions of competition in the U.S. lumber
11 market do not work the way the Coalition would have the
12 Commission believe. As our economists and our home builder
13 witnesses will demonstrate today, this is not a market in
14 which the U.S. industry's fortunes are adversely affected by
15 the increase in Canadian market share.

16 Lumber is not a fungible commodity the Coalition
17 claims it is. Much of imported Canadian lumber feeds
18 particular applications in new residential housing
19 construction that is finally on the mend after years of
20 recession.

21 And every single forecast indicates that demand
22 will continue to grow, and U.S. industry performance will in
23 turn continue to improve into the foreseeable future.

24 With that, let me turn our presentation over to
25 the rest of the team.

1 STATEMENT OF JIM DOUGAN

2 MR. DOUGAN: Good afternoon. I'm Jim Dougan of
3 ECS appearing on behalf of Respondents.

4 Throughout the Commission's prior investigations of
5 softwood lumber, certain conditions of competition have been
6 established and remain relevant to the current
7 investigation.

8 First, demand for softwood lumber is driven by
9 new home construction and repair and remodeling, or R&R.
10 Residential construction over the POI has been low by
11 historical standards, but has been increasing from the
12 severely depressed levels experienced during the housing
13 crisis, and is projected to continue into the foreseeable
14 future.

15 Second, species is a primary factor in purchasing
16 decisions. This was confirmed by staff in Lumber IV, where
17 it noted that, quote, "Species was cited most frequently as
18 purchasers' primary factor in buying decisions." End quote.

19 Given this, it is important to note that there is
20 a clear division by species of softwood lumber produced in
21 the U.S. and softwood lumber produced in Canada.

22 The witnesses from NAHB and Dr. Kirgiz from
23 Cornerstone will explain the limited substitutability
24 between U.S. and Canadian species, but the Commission has
25 recognized that different species are used in different

1 applications.

2 Third, the parties agree that the U.S. softwood
3 lumber market is cyclical.

4 Fourth, the U.S. softwood lumber market is
5 subject to periods of price volatility. In fact, the
6 Commission found in Lumber IV that prices changed
7 frequently, as often as on an hourly basis.

8 The Petition acknowledges that this dynamic
9 environment persists during the current POI, as did Mr.
10 Yocis this morning.

11 Fifth, due to the large number of buyers and
12 sellers, even within each species category, the U.S.
13 softwood lumber is a price taker market. This has been
14 confirmed by the Commission staff and Petitioners
15 themselves, and in fact by the panel this morning.

16 Sixth, as another consequence of the complicated
17 pricing dynamics of the industry, the Commission's
18 traditional approach and data sources have consistently
19 proven to be insufficient for analyzing underselling in the
20 U.S. market. The Commission recognized this in Lumber IV and
21 Petitioners seem to agree.

22 Seventh, the 2006 Softwood Lumber Agreement, or
23 SLA, represents a significant condition of competition, and
24 Mr. Parnes will discuss how the SLA should inform the
25 Commission's analysis.

1 I turn now to the basic demand and supply
2 conditions relevant to this case. Over the past ten years,
3 the softwood lumber market went through a severe cyclical
4 pattern encompassing the peak of the housing bubble, the
5 bursting of that bubble, and the crash and slow recovery
6 that followed.

7 Accordingly, the evidence supports the
8 consideration of demand trends during the POI and into the
9 foreseeable future as part of an ongoing recovery from the
10 housing crisis.

11 As shown at this slide, the housing bubble, as
12 measured by U.S. housing starts, peaked in 2005 and
13 correspondingly so did demand for softwood lumber.

14 When the bubble burst, demand for new
15 construction and softwood lumber fell as well, and between
16 2005 and 2009 housing starts fell by 73 percent, and
17 consumption of softwood lumber by 51 percent.

18 The recovery has been slow but steady, including
19 through the current POI. To date, apparent U.S. consumption
20 has recovered only about half of the demand lost during the
21 housing crash.

22 During the recovery, a combination of factors has
23 resulted in under-building relative to underlying demand for
24 housing. But as new construction ramps back up, the tide is
25 expected to turn and FEA, Forest Economic Advisors, notes

1 that pent up demand will be a key driver of the multi-year
2 housing boom that they are expecting.

3 The housing boom will spur demand for softwood
4 lumber as there is, and has consistently been, as you can
5 see on this slide, a very clear correlation between the
6 share of softwood lumber going to new residential
7 construction and the level of U.S. demand overall.

8 The supply necessary to meet all of this
9 increased demand will increasingly come from the expanding
10 capacity of the U.S. industry, though imports from Canada
11 will continue their historical and necessary role as a
12 significant source of softwood lumber for the U.S. market.

13 When the housing bubble burst, demand for
14 softwood lumber fell by more than 50 percent. But U.S.
15 lumber capacity fell by only 10 percent from its peak in
16 2006 to the trough in 2010. Since then, it has increased
17 gradually and is currently about 5 percent higher than it
18 was in 2001, the last full year of the Lumber IV POI.

19 The lion's share of this growth in capacity has
20 come in the U.S. South, which in 2016 accounts for roughly
21 50 percent of U.S. capacity. Capacity in the West is
22 projected to increase slightly in the near future, but not
23 as much as in the South.

24 The growth in the South has been fueled primarily
25 by the abundance of timber supply due to the amounts that

1 were not harvested during and after the housing crisis. You
2 can see this increased timber supply on the slide.

3 As shown on this next slide, this availability
4 has the effect of pushing costs down and, as a result,
5 margins up for softwood lumber producers. And public data
6 indicates that as of 2016 variable costs for softwood lumber
7 producers are the lowest in North America, not just in the
8 U.S., in North America.

9 Wood markets observed in September 2016 that
10 since 2008 the U.S. South has had some of the lowest
11 delivered log costs in the world, as well as the highest
12 earnings. We've heard a lot about cheap logs in Canada.
13 They are lowest in the South in all of North America.

14 The attractive economics of lumber production in
15 the South have driven a significant amount of investment.
16 Capacity in the South has increased by nearly 2 billion
17 board feet, or 10 percent, since 2013. And as of September
18 2016, there are 15 Greenfield mills, restarts, or expansions
19 underway that will increase capacity further. This is not a
20 temporary phenomenon as Petitioners said this morning.
21 Companies are not making these investments for a
22 short-term outlook.

23 That situation is quite different,
24 however, in Canada.

25 During the housing crisis, softwood lumber
26 capacity contracted much more severely than in the United

1 States. From its peak in 2006, it fell by 8.5 billion board
2 feet, or 23 percent. This is roughly twice the capacity
3 decline that the U.S. industry experienced both in absolute
4 and in percentage terms.

5 Moreover, since that time, capacity in Canada has
6 increased by only about 3 billion board feet, far less than
7 half of the decline. And it's now 2 percent below its level
8 at the end of the Lumber IV POI in 2001, and 15 percent
9 below its peak in 2006.

10 Not only is capacity in Canada not expected to
11 reach its previous level, it is in fact projected to decline
12 as Potlatch put in its investor presentation. This is a
13 reality acknowledged by every industry analyst and the U.S.
14 industry itself.

15 A most important reason for this decline is the
16 effect on reduced timber supplies of annual allowable cuts,
17 or AACs, especially in British Columbia, which represents 50
18 percent of 2016 Canadian capacity, and 52 percent of exports
19 to the United States during the POI.

20 But in the 15 years since Lumber IV, BC has
21 experienced the worst ecological disaster ever to strike a
22 North American forest in the form of the Mountain Pine
23 Beetle, or MPB, epidemic.

24 The scale of the devastation to the British
25 Columbia pine forest is unprecedented. The total cumulative

1 losses from the outbreak are projected to be 58 percent of
2 merchantable pine volume by 2017.

3 During the POI alone, AACs in BC have decreased
4 by 6 percent, or 4.5 million cubic meters. And current
5 Provincial estimates indicate they will decline by another 3
6 million cubic meters, or an additional 4 percent, by 2020.

7 The effects have been most devastating in the BC
8 interior where the largest sawmills are located. Over 2014
9 and 2015, Canfor's Quesnel Mill and West Fraser's Houston
10 Mill with combined capacity of 750 million board feet shut
11 down. This was followed by the December 2016 closure of
12 Talca, an additional 250 million board feet of capacity.
13 All cited reduced timber supply from the Pine Beetle
14 epidemic as the reason for the closures. This is a billion
15 board feet of capacity.

16 But despite the supply constraints described,
17 Canada will retain its historical role in the future as a
18 significant supplier to the U.S. market, as it provides
19 softwood lumber products that fill particular end-use
20 requirements and regional preferences in a way that U.S.
21 softwood lumber production alone cannot.

22 At this point I turn to our fellow witnesses to
23 explain the lack of substitutability between lumber from the
24 U.S. and Canada.

25 STATEMENT OF BARRY RUTENBERG

1 MR. RUTENBERG: Good afternoon. My name is Barry
2 Rutenberg and I'm the Chairman of Arthur Rutenberg Homes.
3 We have 43 franchised home building operations in the
4 Eastern U.S. focused on building custom luxury homes.

5 Our 100-plus corporate employees provide
6 services, including purchasing and design support to these
7 builders. We work with builders closely and have good
8 insight into the materials they use and why.

9 Our builders are predominantly in the Southeast,
10 Florida, Georgia, North and South Carolina, Tennessee, with
11 small new operations in Ohio and Indiana.

12 In addition, I was Chairman of the Board of
13 Directors of the National Association of Home Builders in
14 2012, and am appearing today on behalf of NAHB.

15 I am here to provide you with the real-life
16 experience of someone who has been building homes for 40
17 years. Having testified before the Commission previously, I
18 appreciate your disciplined approach to understanding the
19 facts about this industry, and I offer my expertise for that
20 purpose.

21 In my experience, lumber is purchased primarily
22 by species based upon past performance of the wood. I know
23 what I prefer, and I don't switch species unless required by
24 Code or engineering. I see our builders following the same
25 pattern.

1 Our builders aren't reinventing the wheel every
2 time they start a new house. They rely on techniques and
3 materials that have worked for them in the past. In home
4 building there's significant up-front investment of time and
5 money in designing and engineering building plans, and in
6 obtaining the necessary approvals and permits for building.

7 Once the designs are approved, builders would
8 like to be able to submit the same documents for future
9 homes. If you were to change the materials, you might need
10 to resubmit the plans to zoning and building officials.

11 Changes in materials might cause significant
12 delays which would hurt both the home buyer and home
13 builder. I don't know if any of you have ever built or
14 remodeled a home, but if you did you might know that one
15 change can have a cascading effect on the timing of the
16 project and can have a significant impact on the price you
17 ultimately pay for the work.

18 The preference for SPF in framing applications
19 is driven by the superior stability and workability of SPF.
20 I use SPF because it provides straighter walls. My
21 experience is that Southern Yellow Pine is much more prone
22 to warp and twist on drywall surfaces, both horizontal and
23 vertical. Particularly for any contact with drywall, the
24 Southern Yellow Pine will more likely cause the nails to
25 work themselves out and cause other imperfections that would

1 be apparent to the homeowner.

2 I don't know of any builders who use Southern
3 Yellow Pine for framing walls. Maybe some do, but not in my
4 experience, unless required by code or by engineering.
5 People who prefer SPF would not substitute Southern Yellow
6 Pine. In past market disruptions, we've gotten some
7 substitute products from international markets. In the end,
8 we would really just be driving up the cost of the homes.

9 It is performance that drives the choice between
10 Southern--SPF and Southern Yellow Pine, not the price.
11 Southern Yellow Pine is often used as joists and outdoor
12 applications and is preferred for all applications that call
13 for pressure-treated lumber.

14 When treated lumber is required by building
15 codes, it is Southern Yellow Pine. You wouldn't substitute
16 SPF because SPF does not absorb the chemicals well and is
17 not generally sold as treated lumber. Treated lumber is
18 also preferred for outdoor applications like posts, decking,
19 railing, fences, pickets, and the like.

20 I would encourage the Commission to take into
21 account the demonstrated preference by builders for SPF for
22 framing. Builders rely on consistent performance of SPF
23 and the drawbacks of using Southern Yellow Pine in its place
24 are such that an increase in price due to antidumping or
25 countervailing duties is not going to cause builders to

1 flock to Southern Yellow Pine. It just doesn't deliver what
2 they need.

3 Choices between building materials are not made
4 on price but on performance. I hope my testimony has been
5 helpful, and I would be happy to answer any questions you
6 have.

7 STATEMENT OF RICHARD G. MILLMAN

8 MR. MILLMAN: Good afternoon. My name is Richard
9 G. Millman and I am President of Millman Lumber Company. We
10 are a family business located in St. Louis, Missouri. We
11 serve customers in 14 states, from Kansas to Pennsylvania,
12 and Michigan to Texas.

13 Millman Lumber sells wholesale through its six
14 Forest Products Supply divisions, and retail in St. Louis through
15 Great Central Lumber Company, a family-owned business.

16 The company was started in 1932 by my father. We
17 now have about \$330 million in annual revenue and employ
18 over 350 people. I have been in this industry since 1972,
19 having filled such roles as purchasing agent, sales manager,
20 vice president, and president and CEO since 1987.

21 We purchase lumber from a variety of mills across
22 the United States, including Western, Inland, and Southern
23 United States and Canada. Whether we are purchasing for our
24 wholesale business or our retail yard, we cater our
25 inventory to home builders.

1 The customers for our wholesale business are
2 lumber yards, but they eventually sell the lumber on to
3 builders. As a result, the type and quantity of lumber we
4 purchase is driven by what home builders in our area
5 require.

6 Our purchases are made by species and dimension.
7 The specification sheet is normally provided by an architect
8 or engineer. They specify what materials they require. We
9 will provide a customer with whatever they want, but we tend
10 to know what they'll ask for and build up inventory on that
11 basis.

12 We carry SPF, Doug Fir, Hem Fir, Southern Yellow
13 Pine, and pressure-treated and fire-treated Southern Yellow
14 Pine.

15 There are three basic components to building a
16 house: flooring, framing, and roofing. Framing is the most
17 lumber-intensive and it accounts for about 40 percent of all
18 the lumber that goes into a single house. In the market we
19 serve, the vast majority of the lumber used for framing is
20 Canadian Spruce Pine Fir.

21 Our customers are creatures of habit with respect
22 to the materials they use. While all builders are sensitive
23 to cost, the decision on what species to use in home
24 building is not driven by price. It is driven by personal
25 preference and tradition.

1 Even if there is a change in price, builders will
2 rarely change their methods. We have spent a lot of time
3 trying to figure out why it is that builders have and keep
4 such strong preferences for using a certain species. But
5 when it comes right down to it, I honestly believe that if
6 someone's granddad used SPF, they are likely to use SPF.

7 We do see some folks who prefer domestic species
8 for framing like Douglas Fir or Hemlock, but it is absolutely
9 the majority SPF for framing applications in the markets I
10 serve.

11 What I heard this morning from the panel about
12 competition between SPF and U.S. species doesn't reflect my
13 experience in the marketplace. The strong preference of
14 builders are intractable.

15 Let me give you an example. We have a
16 distribution center in St. Louis and carry 100 percent SPF
17 studs. Not a stick of Douglas Fir studs. In Kansas City,
18 which is only 200 miles away, we have a mix of 80 percent
19 Douglas Fir and 20 percent spruce. In Oklahoma City, we
20 carry 100 percent Douglas Fir and not a stick of Southern
21 Yellow Pine or SPF. And Oklahoma is a Southern Pine
22 producing state. The trucks from the mills literally run
23 by our distribution center.

24 But we don't carry it because the preference in
25 that market is not for Southern Pine. I have been in this

1 business for over 40 years, and the preferences of builders
2 are consistent within markets. And it doesn't change even
3 when the prices are different.

4 In Kansas City where both are offered and offered
5 at different prices, people buy their historical preference,
6 not the one that is cheaper. My point is, as between SPF,
7 Doug Fir, and Hem Fir, it is driven by the builder
8 preference not driven by the price.

9 The difference between performance is even more
10 dramatic between SPF and Southern Yellow Pine. SPF is
11 preferred for framing because of its stability, light
12 weight, and ability to hold fasteners. This is especially
13 important during the drywall phase.

14 Framing done with Southern Yellow Pine is prone
15 to warping, and that is why SPF is preferred. It will stay
16 straight, hold fasteners well, and will make it easier for
17 everyone down the line.

18 Southern Yellow Pine, on the other hand, is
19 preferred for roofing and flooring. Southern Yellow Pine
20 has good strength properties and is generally available in
21 larger spans.

22 I have brought some samples to show you, and I
23 will pass them around. The first sample is a piece of
24 Spruce. This was not hand-picked by me. I asked our yard
25 person to go out. He didn't know I was going to this. But

1 you will see it. It's a little bit lighter in color, which
2 the people at the home centers prefer, it's lighter weight,
3 and I'll pass it on to the people up in front.

4 You'll see the growth rings here, which is the
5 main thing in the stability of wood. The tighter the growth
6 rings, the more stable the wood is.

7 On this piece over here, once again this is
8 Southern Pine. This is normally cut from plantations. You
9 can see the growth rings here, and also feel the wood. So
10 if you're a customer going to a Home Depot or a lumber yard,
11 you're going to have a choice of two. It's not the price.
12 Like I said, certain people prefer certain things.

13 This is good on roof trusses. SPF is good in
14 framing. So I'll pass it around to you, though. In Canada
15 the trees grow slower due to the short growing season, so
16 the rings are closer. You'll see that in all Canadian wood.

17 The tight grain has less tendency to expand or
18 move. The builder prefers Spruce because it is lighter and
19 straighter. The Southern Yellow Pine is grown a lot now on
20 plantations. The panel before mentioned 25 to 30 year
21 growth span for that. Canadian trees will take 70 to 100
22 years, the bigger span between the rings.

23 The bigger the grain, the more movement in the
24 wood. That causes the Southern Yellow Pine to crook. The
25 bottom line is that the builder chooses the product based on

1 performance and historical preference, not on price.

2 Thank you, and I look forward to any questions
3 you might have.

4 STATEMENT OF KIVANC KIRGIZ

5 MR. KIRGIZ: Good afternoon. My name is Kivanc
6 Kirgiz. I'm an economist with Cornerstone Research. I was
7 asked by the respondents to analyze, from an economic
8 perspective, the substitutability between lumber imported
9 from Canada and lumber produced in the U.S.

10 My analysis shows that the degree of
11 substitutability is low. As the relative prices of imports
12 from Canada and domestic products change, economic evidence
13 shows that consumers do not substitute from one to the other
14 in any significant degree. The reason why this is the case
15 is that imported and domestic lumber are what economists
16 term "differentiated" products.

17 As a general economic principle, the more
18 differentiated products are in their applications, the lower
19 is the elasticity of substitution. Lumber imported from
20 Canada and produced in the U.S. largely originate from
21 different species of trees. That's why they have different
22 attributes and are better suited for different end users, as
23 you've already heard from prior witnesses.

24 In this slide, the bars to the left show the
25 species breakdown of U.S. lumber. The red bars to the right

1 show the same imports from Canada. About 87% of imports
2 from Canada are SPF. In contrast, only about 5% of lumber
3 produced in the U.S. is SPF. The species most commonly used
4 in the U.S. is SYP with 53% share. Virtually no SYP is
5 imported from Canada. The second most common
6 species in the U.S. is Doug Fir with 24% share. In contrast,
7 only 3% of imports from Canada are Doug Fir.

8 In Lumber IV, responses to the
9 purchasers' questionnaires show that the number one factor
10 that impacts economic purchasing decisions was species.

11 Commission found that differences in physical
12 characteristics between species, as well as customer
13 preferences, limited substitutability. At that time the
14 staff determined the elasticity of substitution to be in the
15 range of two to five.

16 In Lumber IV, respondents submitted an economic
17 report that estimated the elasticity of substitution and
18 found it to be lower than the range estimated by the staff.
19 Since Lumber IV, several academic studies estimated the
20 elasticity of substitution. This slide summarizes the
21 findings of these economic studies.

22 The Y-axis is the magnitude of elasticity of
23 substitution. On the X-axis, we summarize the different
24 studies. These studies use various sources, methodologies
25 and time periods. One of them even collected data by

1 surveying builders. Despite these differences, their findings
2 are remarkably consistent.

3 They all find lower elasticity of substitution
4 between Canadian and U.S. lumber species. The estimates
5 range from 0.03 to 1.46, but are all below the lower end of
6 the staff's estimated range in Lumber IV, which is shown in
7 the shaded area. Thank you for your time.

8 STATEMENT OF ERIC PARNES

9 MR. PARNES: Hello again. I'm Eric Parnes with
10 Hughes Hubbard. Just want to talk about another important
11 condition of competition, which is the 2006 Softwood Lumber
12 Agreement. The SLA was in place for thirty-three of the
13 forty-five months of the POI, but we didn't hear much about
14 it earlier today, so I want to talk to you a little bit
15 about how it worked, to give you some background.

16 Under the SLA, Canadian provinces were able to
17 choose between two options for export measures. With
18 respect to price under both options, no export measures
19 applied when prevailing lumber prices exceeded \$355 per
20 thousand board-feet. Now, with respect to volumes, the idea
21 of 34% of U.S. market share figured prominently in
22 calculating limits on Canadian exports to the United
23 States.

24 For Option A, the SLA included a surge mechanism
25 that authorized a 50% increase in the export tax, if a

1 regions' exports exceeded a trigger volume which was based
2 on its share of 34% of U.S. consumption.

3 For Option B, 34% of U.S. consumption defined
4 the high-end of volume restrictions when prices fell below
5 \$355. 34% was the share of U.S. consumption held by
6 Canadian softwood lumber in 2001 when the Commission found
7 no current injury in Lumber IV. And it's roughly the share
8 in 2006 when the SLA was signed.

9 It's important to emphasize that during the
10 majority of the POI, the SLA imposed no export restrictions
11 on Canadian producers. For twenty-four months during the
12 POI, the SLA was in effect and prices exceeded \$355 per
13 thousand board-feet, so no export taxes or volume
14 restrictions applied. And of course, no export taxes
15 applied after 2015.

16 That means for thirty-five of the forty-five
17 months in the POI, Canadian exports of softwood lumber were
18 not subject to any export measures. With this context, the
19 important thing to keep in mind about the SLA is what the
20 U.S. industry represented as part of its bargain.

21 U.S. softwood lumber producers accounting for
22 the majority of domestic production represented that the SLA
23 removes any alleged material injury or threat of material
24 injury to the U.S. softwood lumber industry from imports of
25 softwood lumber from Canada.

1 And here's another letter to the same effect.
2 Both of these are from members of this morning's panel. The
3 majority of the POI coincides with the period in which the
4 U.S. industry acknowledged that it suffered no injury. And
5 once again, that was also a period largely free of exports restrictions.

6 Now the coalition claims in the petition that
7 Canada failed to fully implement the terms of the SLA, and
8 that somehow deprived the domestic industry of its
9 protections. But that just doesn't make any sense in
10 context.

11 First, the conduct that led to the arbitrations
12 that are described by the coalition happened well before the
13 POI. Even if the coalition accurately characterized the
14 issues and outcomes of those arbitrations and we don't think
15 that they did, but even if they had, there's no basis to
16 suggest that they had any effect on the POI.

17 Second, the coalition supported extending the
18 SLA for two years beyond its original expiration date of
19 September 2013. For the coalition to now claim that it
20 suffered injury while the SLA that they supported remained
21 in effect is disingenuous at best. Thank you.

22 STATEMENT OF COLIN BIRD

23 MR. BIRD: Good afternoon. I'm Colin Bird,
24 Minister-Counsellor for Trade at the Embassy of Canada.
25 I've been involved in the softwood lumber file since 2004

1 and from 2009 to 2014, I directed the softwood lumber
2 division at Canada's Foreign Ministry, now Global Affairs
3 Canada.

4 I understand that there are questions about the
5 appropriate data source for import volumes in this case. I
6 am familiar with U.S. and Canadian export/import data,
7 having had responsibility for reconciling them under the
8 Softwood Lumber Agreement. I'm also aware of efforts to
9 address discrepancies between U.S. Census Bureau data and
10 Statcan's data that emerged after the SLA expired in October
11 2015.

12 There are three relevant data sources. First,
13 Canadian export permit data. Second, U.S. Census data based
14 on U.S. customs inputs. Third, Statcan's data based on data
15 from the U.S. Census, but subject to a validation process.

16 Accurate tracking of export volumes is critical
17 to administrating of the SLA export measures and to
18 stakeholder confidence. Article 15 of the SLA required us
19 to exchange aggregate monthly data with U.S. customs for
20 reconciliation.

21 Canada and the U.S. agreed to exchange data at
22 the transactional level through a very active technical
23 working group. We went to this level in large part because
24 U.S. data systems had not been designed to collect the data
25 required under the SLA.

1 The majority of the transactions that needed to
2 be corrected were on the U.S. side. That is, as the data
3 were reconciled, U.S. Customs data tended to move towards
4 Global Affairs data. We would routinely see large volume
5 errors in the initial U.S. data related to conversion errors
6 between cubic meters and board-feet, and errors due to a
7 decimal requirement in U.S. data fields that was subject to
8 broker input error.

9 Reconciliation would continue until U.S. customs
10 was fully satisfied. We reached an extraordinary level of
11 data matching. Global affairs always adopted the
12 corrections. U.S. customs was free to correct or not. This
13 flexibility meant that U.S. data sometimes differed from
14 permit data. Permit data was the more accurate of the two
15 and was what the parties relied on.

16 The last reconciliation was August 2015. We did
17 continue sharing data after August 2015, covering the entire
18 duration of the SLA. Canada offered to continue reconciling
19 data after the SLA expired, but the U.S. declined.

20 After the SLA expired, we began to see higher
21 volumes in Census and Statcan's data than in permit data.
22 Global Affairs notified Statcan, sharing the transaction
23 specific information that we had previously provided to U.S.
24 customs under the SLA.

25 Statcan identified and corrected about three

1 hundred aberrational transactions. These aberrations were
2 huge. Unit values or orders of magnitudes smaller than what
3 is typically seen. For example, a typical transaction would
4 be a railroad car valued at \$50,000, 250 cubic meters.
5 Statcan found values of \$50,000, but associated with volumes
6 of 30,000 cubic meters. No company would reserve 120
7 railcars for a \$50,000 product.

8 I should stress that Statcan's review is
9 precisely what we would do with U.S. customs as a matter of
10 routine while the SLA was in effect. Statcan has notified
11 U.S. Census of these corrections and they have begun to be
12 captured with August 2016 U.S. Census data. For revisions
13 to prior months I understand that the U.S. Census does an
14 annual correction, which is scheduled for June/July 2017.
15 Statcan revises each month, meaning it has the most
16 up-to-date data.

17 U.S. has industry analysts who usually rely on
18 U.S. Census data have chosen to use Statcan instead. This
19 includes Henry Spelter, the former U.S. Forest Service
20 Economist who is now at FEA, and David Fortin and Robert
21 Berg from RISI, who have noted that Statcan's data are "more
22 realistic, given other reported industry market statistics."

23 We therefore believe it would be appropriate for
24 the Commission to rely on Statcan's data. Thank you.

25 STATEMENT OF JIM DOUGAN

1 MR. DOUGAN: Jim Dougan again. Colin's
2 discussion of import data is a perfect segue into our volume
3 effects analysis because for purposes of this presentation,
4 I measure subject imports based on Statcan's data, which we
5 believe to be the most accurate and correct source based on
6 what he said. But respondents submit that the subject
7 import volume is not significant using either data source
8 for a number of reasons.

9 First, as shown at this slide, imports increased
10 during a time of growing demand, along with increases in
11 domestic industry shipments. Second, as shown in the next
12 slide, absolute subject import volumes are lower than in any
13 year prior to the housing crisis going back to 1995. Third,
14 shown at the next slide, subject import market share over
15 the POI has been low by historical standards, which
16 typically was in the range of 33 to 34%. Imports from
17 Canada maintained this historical share prior
18 to the collapse of the housing bubble when new
19 residential construction was driving softwood lumber
20 consumption. But as shown on the next slide, when the
21 housing market crashed, so did new residential construction
22 and along with it, subject import market share. Since then,
23 Canadian market share has followed the same upward trend as
24 the share of softwood lumber used in new residential
25 construction. What's more, as shown on the next slide, the

1 absolute volume of imports from Canada has closely tracked
2 the increases in consumption for new residential
3 construction.

4 Fourth, Canada market share during this POI
5 is below the level in Lumber IV not found to be causing
6 material injury to the domestic industry and below the 34%
7 level prescribed in the 2006 SLA as being non-injurious.

8 So notwithstanding the small increase in
9 subject import market share over the POI, if the domestic
10 injury wasn't injured by reason of subject imports in Lumber
11 IV or during the 2006 SLA, it cannot be injured by reason of
12 subject imports now. This is especially true given the
13 strong increases to the industry's performance over the POI.

14 The domestic industry showed no indication of
15 adverse volume effects for the twelve months after the SLA's
16 expiration. All volume indicators were stable to increasing
17 compared to the prior year. FEA, which is the source for
18 the nominal capacity figures, is also the source cited in
19 WWPA's calculation of the Practical Capacity Utilization
20 there on the table. Petitioners rely on the
21 WWPA Practical Capacity Utilization figures
22 in the petition, there on Page 57. Thus, to the
23 degree that the questionnaire data end up being
24 closer to the FEA numbers than the WWPA numbers, it is
25 likely that the producers are responding with their nominal

1 rather than practical capacity.

2 On the next slide, it shows that there's no
3 evidence of adverse volume effects over the Commission's
4 traditional three-year and interim year comparisons. And
5 utilization has increased steadily, from 80% in 2013 to 83%
6 in 2015 to 86% in part-year 2016. And the latter figure is
7 broken out by Lumber Track, and it shows utilization of 90%
8 in the U.S. South, and 82% in the U.S. West, and we are
9 confident that the questionnaire data will confirm this
10 absence of adverse volume effects.

11 There is similarly no evidence that subject
12 imports from Canada have caused adverse price effects to the
13 domestic industry. The pricing data collected thus far in
14 the current investigation are consistent with the
15 understanding that traditional ITC underselling analysis
16 cannot be applied effectively in this particular market.
17 But publicly available pricing data can provide useful
18 indications of trends.

19 And as shown at this slide, all major price
20 composites of U.S. species reported by Random Lengths rose
21 between October 2015 and September 2016, all after the
22 expiration of the SLA and all while imports from Canada were
23 increasing. Additionally, the Random Lengths Framing Lumber
24 Composite Index, or FLCI, which was the basis for
25 determining export tax levels during the SLA, increased by

1 12%.

2 And while not depicted here, we note that the
3 U.S. prices for Canadian species increased by even more than
4 U.S. species. The record evidence for the post-SLA period
5 is thus the exact opposite of what one would expect to see
6 in the case of adverse price effects.

7 Respondents submit that the Commission should
8 focus on the recent pricing data as that information is most
9 relevant to whether prices of subject imports are currently
10 having an injurious effect, and that data is from the
11 post-SLA free-trade period, during which petitioners
12 implicitly claim to have been the most vulnerable.
13 That said, there's also no indication that imports
14 have caused adverse price effects over the full POI.
15 Despite strong overall years for the industry in 2013 and
16 2014, prices declined from the high peak in 2013 through
17 2015, reflecting the volatility experienced in the market as
18 demand fluctuated. Always on a general upward trend, but
19 sometimes growing less than expected.

20 The record contains no persuasive evidence,
21 however, that any such decreases in price occurred by reason
22 of subject imports. Indeed, subject imports gained only
23 modest market share while prices declined over the first
24 three years of the POI and then gained greater share when
25 prices increased strongly between the interim periods.

1 A similar logic applies to the question of
2 whether subject imports from Canada have caused any adverse
3 impact to the domestic industry. And it's important to put
4 the POI in context. Prices were high and industry
5 performance was strong in 2013 and 2014, even in the midst
6 of the market's slow recovery following the housing crisis.
7 In fact, as shown at this slide, public data from
8 Weyerhaeuser's investor presentation, performance in
9 2013 was much improved from 2011 and 2012, even though
10 subject import volume and market share increased over that
11 period as well. Even the financial data provided in the
12 Petition cut any causal link between subject imports and the
13 condition of the domestic industry.
14 Despite an increase in subject import market share
15 between the interim periods, production, shipments and
16 capacity utilization all increased. And the latter is
17 especially noteworthy because capacity increased as well.
18 The domestic industry's financial performance
19 appears to be even more impressive, with an increase in
20 operating margins from 8% in Interim 15 to 11% in Interim
21 16, and the questionnaire data thus far indicate even better
22 results. By way of comparison,
23 the industry's operating margin was
24 1.8% in 2000 and 1.3% in 2001. And the
25 Commission found that this did not constitute current

1 material injury. While the industry's performance declined
2 in 2015 from very strong years in '13 and '14, petitioners
3 have provided no compelling evidence or argument why a
4 modest increase in Canadian market share from 2014 to 2015
5 caused such a decline in profitability, while a more
6 substantial increase in Canadian market share between the
7 interim periods was accompanied by such a strong increase in
8 profitability.

9 We note also that the coalition claims that
10 imports from Canada have caused substantial mill closures
11 during the POI, citing 78 curtailments in the U.S. Most of
12 these were for two weeks or less. Indeed, over 80% of the
13 curtailments were for mills currently operating or for sites
14 for new mills under construction. Virtually all of the
15 mills that closed permanently during the POI did so because
16 of log shortages or issues with mill equipment, and none of
17 the mills cited imports from Canada as a cause.

18 But as weak as the petitioner's current material
19 injury case may be, its threat case is even weaker. The
20 industry's not in a vulnerable state, as its trade and
21 financial indicators all improved, most strongly in the most
22 recent part of the POI, and it has made and continues to
23 make substantial investments and additional capacity,
24 especially in the south.

25 The demand outlook is exceptionally strong. As

1 shown at this slide, due to the pent-up demand discussed
2 earlier, new residential construction activity is projected to
3 be strong for many years to come. And this means, as shown
4 on the next slide, that demand for softwood lumber is
5 expected to be strong into the foreseeable future as well.

6 Respondent's post-conference brief will address
7 each of the statutory criteria, but it's obvious that
8 pricing trends that we've seen don't point to any likely
9 adverse price effects. The FLCI grew by 12% post SLA, and
10 for much of that period, was above the \$355 trigger price,
11 above which no export taxes would be applied under the SLA.

12 Second, the severe capacity constraints in
13 Canada mean there's low likelihood of substantially increased
14 imports in the imminent future. Lumber Track estimates
15 utilization in Canada for the January to September period
16 as 90% and 92% in British Columbia. It's clear there's
17 little available capacity left.

18 Finally, producers in Canada are unlikely to
19 divert shipments from other markets to the U.S. in the
20 imminent future. Over the last decade, Canadian producers
21 developed export markets in Asia to offset the decline in
22 demand after the bursting of the U.S. housing bubble, and
23 to find alternative markets for the lumber affected by the
24 Pine Beetle epidemic, which was not of a quality generally
25 acceptable to U.S. softwood lumber consumers.

1 which they compete. No mention of western red cedar.

2 And Mr. Miller said twice, wood is wood.

3 Respectfully, we could not disagree more. Western red cedar
4 is a genuinely unique product. And there are clear dividing
5 lines between western red cedar and other softwood lumber
6 products covered by the petition.

7 Western red cedar possesses unique physical
8 characteristics such as its warm, reddish color, natural
9 resistance to decay, softness and lightweight that make it
10 unique suitable for decorative outdoor applications. You
11 would never hide western red cedar inside a wall for the
12 construction of a house as you would the dimension and
13 framing lumber that is at the heart of this case.

14 Purchasers of western red cedar do not look to
15 other softwood species as a substitute, but rather non-wood
16 substitutes, such as vinyl or composites. One advertisement
17 for western red cedar makes this exact point, as you can see
18 on the slide or on this board. "Real cedar -- because no
19 one ever brags about their home looking like real vinyl."

20 Western red cedar also requires different
21 manufacturing processes. Harvesting western red cedar often
22 involves expensive helicopter logging and milling western
23 red cedar is a much more labor-intensive and costly process.

24 But perhaps most important is that western red
25 cedar manufacturers, distributors and end-users function as

1 a distinct industry. Western red cedar has a dedicated
2 trade association, The Western Red Cedar Lumber Association.
3 Under the real cedar trademark, western red cedar is
4 marketed as a unique premium product that commands a
5 substantial price premium over other softwoods.

6 A number of U.S. lumber distributors and
7 remanufacturers have already come forward to tout the
8 uniqueness of western red cedar and we'll place those
9 letters on the record. One worth highlighting is from
10 Weyerhaeuser, which in the last lumber case, forcefully
11 argued that western red cedar is a separate like product.
12 We're gratified that such a key member of the coalition is
13 stepping up again to explain why western red cedar is a
14 separate like product.

15 If the Commission finds that there is inadequate
16 record to find that western red cedar is a separate like
17 product in this preliminary phase, we urge the Commission to
18 flag this issue for thorough and serious investigation in
19 the final phase. Thank you.

20 STATEMENT OF ELLIOT FELDMAN

21 MR. FELDMAN: Good afternoon. I'm Elliot
22 Feldman from Baker & Hostetler. I'm here with my partners
23 on either side of me, Mike Snarr and John Burke, on behalf
24 of the Central Canada Alliance of the Quebec Forest Industry
25 Council and the Ontario Forest Industries Association

1 softwood lumber group. With respect to one particular
2 product, I am speaking on behalf of Resolute Forest
3 Products.

4 I'm going to speak for a few minutes on two
5 subjects. First, like products. The petition is about
6 construction-grade framing lumber that it treats as a
7 commodity. The only pricing data the petition requests from
8 the Commission, at Pages 53 and 54 of the petition, are for
9 studs, the only lumber identified as in head-to-head
10 competition while claiming all studs are the same.

11 Through the HTS codes and the scope description,
12 however, the petition sneaks in some products other than
13 construction studs, like western red cedar, that are not
14 construction-grade framing lumber. Indeed, not studs at
15 all. U.S. manufacturers of these products are not
16 identified.

17 Nothing is said about any of the criteria for
18 like products, including their pricing, which does not
19 remotely correspond to the pricing of studs. There is no
20 allegation of injury or threat of injury. The petition
21 doesn't request any information be gathered about them.

22 Instead, those petitioners involved with these
23 products seem to think they can reduce competition for
24 themselves in a free ride on the back of the lumber truck.
25 Our clients are concerned about two of these products in

1 particular.

2 First, eastern white pine, the "other" on Mr.
3 Kirgiz' slide. As Mr. Banahan conceded, it is an
4 appearance-grade wood, whereas this case is about
5 construction-grade. Botanical alchemy can't turn all
6 softwoods into the same end products. It is the commercial
7 use of a product, not its original raw material state in
8 the ground, that should matter. As it matters to the
9 customs code.

10 I brought a typical southern yellow pine stud.
11 One is holding up the projector, and there's another one
12 here for you to see. And an eastern white pine board so
13 that you can compare them. Mike, if you want to pass them
14 along.

15 The Commission looks at competition between
16 products, interchangeability, manufacturing process, price.
17 The stud and the white pine board are not alike, nor are
18 they interchangeable. All they have in common is that
19 they're both made of wood. And with respect, wood is no
20 more just wood than all plastics are plastics, or all steel
21 is just steel.

22 The appearance of a stud doesn't matter. It's
23 hidden behind walls. Eastern white pine, by contrast, is an
24 appearance-grade wood, you buy it and it's manufactured just
25 like a hardwood. Like oak or mahogany, it's made to be seen

1 in window sashes, doors, trim, toys and furniture. Mr.
2 Banahan conceded all of those uses in distinguishing eastern
3 white pine himself.

4 You pay a price for it to be seen. Eastern
5 white pine will not hold up a house. You can feel how much
6 lighter it is than the southern yellow pine stud, and if it
7 could, it would be wildly too expensive to use for this
8 purpose. Mr. Banahan testified himself that eastern white
9 pine has no structural use. And this morning he asserted
10 that Pleasant River is losing in competition with eastern
11 white pine from Canada. But what proof did he or the
12 petition offer?

13 He asserted price, but he offered not a single
14 example, not a single price. Neither did the petition. On
15 none of the Commission's like product criteria is eastern
16 white pine like any of the four studs referenced in the
17 petition. And Pleasant River's eastern white pine is not
18 competing with them.

19 We're concerned about a second like product.
20 And I brought you some samples of that as well, that Mike
21 will show you. Bedframe components. Like eastern white
22 pine, they're not similar in any way to the studs that are
23 the true subject of the investigation, a fact that in an odd
24 way, the petition acknowledges.

25 The petition excludes radius-end bedframe

1 components from the proposed scope, yet includes, without
2 explaining why, square-end bedframe components. Both are
3 required in the assembly of a bedframe. The samples are
4 here for you to see, and at the back of the Canadian slide
5 packet you're receiving is a picture and a sketch of how
6 they assemble.

7 Whether radius or square-end, all bedframe
8 components constitute a single like product that is
9 unique and distinct from softwood lumber. They can be used
10 only to make bedframes.

11 Bedframe components can't be used to hold up a
12 house. They can't be glued together to be a stud. They're
13 cut and sized for bedframes. They don't compete in any way
14 whatsoever with the framing construction lumber that is the
15 subject of the petition. You can't and wouldn't frame a
16 house with the components you would use for your box spring
17 and mattress. The petition contains not even a whisper
18 about injury or threat of injury to any U.S. manufacturer of
19 bedframe components.

20 The Commission opted fifteen years ago for a
21 theory it called a continuum. Everything made from a tree
22 grown from a conifer was deemed a like product, all as part
23 of the continuum. As if all plastics and many other
24 products manufactured from oil would all somehow would be like
25 products.

1 Since then, a line of cases has developed that
2 recognizes distinct like products in automotive tires,
3 stainless steel pipes, steel and aluminum wheels, coated
4 free-sheet paper, sodium and potassium phosphate salts.

5 The petition claims, we think incorrectly, that
6 all construction-grade studs are approximately the same
7 regardless of species. It also claims, even more
8 egregiously in our view, that all products produced from
9 softwood trees, even those that are not studs and cannot be
10 used for construction, are the same like product. It makes
11 no distinction between appearance and construction grades
12 and provides no information at all about the
13 appearance-grade products. We hope the Commission,
14 enlightened by its own recent determinations and focused on
15 the failings of the petition, will get the wood products
16 right this time.

17 My second subject this morning, as Monty Python
18 might say, is completely different. The Commission may
19 believe that it has heard it before, and I myself raised it here
20 a year ago in another case. We don't think the Commission
21 has heard it right. We ask in this preliminary phase only
22 for open minds.

23 The Canadian Constitution, as you've heard this
24 morning, conveys ownership of natural resources and
25 therefore the forests to the provinces. Provincial

1 governments sell the rights to private companies to cut and
2 sell the Crown's timber. Allegations that Canadian lumber
3 producers don't pay enough for these rights are allegations
4 against provincial governments, each of which has its own
5 way to value and sell cutting rights and to maintain the
6 forests.

7 Because these provinces are different, the
8 Department of Commerce must and does investigate separately
9 each one. The arguments this morning that prices in Canada
10 for cutting rights are guaranteed and not competitive are
11 simply wrong. They are a caricature at best, an inaccurate
12 memory at the most.

13 The Commission must look at the nature of
14 alleged subsidies, which will expose the truth of this
15 matter when the time comes to do that. The Department
16 couldn't investigate provincial programs unless, applying the
17 trade law, it treated the provinces as countries.

18 The Commission in the past has erred in
19 asserting that the Department as the administering
20 authority, defines the country under investigation. The
21 statute defines country and surrenders no such authority to
22 the Department. The Commission then has conflated scope
23 with country. The Department does indeed define scope, the
24 description of the product, but not the country.

25 Consideration of separate injury determinations

1 for separate countries matters only in investigations that
2 find a threat of injury. The Commission has never found
3 more than a threat each time it has examined injury
4 allegations regarding softwood lumber, which is why in a
5 final phase this issue could become important.

6 For purposes of the preliminary determination,
7 we ask only that the Commission recognize that, should it
8 determine affirmatively that Canadian softwood lumber,
9 presumed to be unfairly traded, threatens the U.S. industry
10 with imminent injury, it will be necessary then, and only
11 then, to examine the nature of the alleged subsidies in
12 reference to each of the countries involved in the
13 investigation.

14 With the prospect that the Commission should
15 determine for each one separately whether its export of
16 softwood lumber to the United States causes a threat of
17 injury to a U.S. industry, the Commission will have before
18 it rates for each province to guide its analysis of injury
19 and threat of injury.

20 We'll set out in our post-conference brief the
21 Commission's like product analysis requirements. We'll
22 demonstrate why the Commission's erroneous thinking on this
23 subject fifteen years ago doesn't control this
24 investigation. For now, we've wanted only to sketch
25 essential facts. Bedframe components are for beds, not for

1 holding up houses. And hiding eastern white pine inside the
2 walls would be like using the gold you might've purchased
3 for the faucets, if you were a certain American political
4 figure, only for the hidden pipes. Thank you.

5 MS. HAINES: Thank you. Thank you for your
6 testimony. Mr. Ruggles.

7 MR. RUGGLES: I assume in your post-conference
8 briefs you're going to be giving the import numbers you want
9 us to use. If you could do that, maybe you know just flip
10 them out to me this afternoon or early Monday morning before
11 the post-conference it would be nice, just so I can have
12 them.

13 MR. PARNES: Yes, of course, we can do that.

14 MR. NICELY: When you say "the numbers"?

15 MR. RUGGLES: Well, you've come up with a bunch
16 of different numbers that you claim are the numbers of the
17 shipments from Canada to the United States.

18 MR. NICELY: Clarifying, the import statistics,
19 okay. Thank you.

20 MR. RUGGLES: Okay. And if I understand
21 correctly, the western red cedar and the white pine I
22 understand they're -- from my perspective, yes, they're
23 different in some things, still softwood lumber. Nobody's
24 disputing that. You're just disputing the use of it and
25 therefore should not be put into the petition.

1 MR. FELDMAN: We're disputing more than that, I
2 think. There's softwood lumber under a botanical
3 proposition because they are spawned by a conifer, but in
4 every other respect they're hardwoods. They're produced in
5 hardwood mills. They're produced according to hardwood
6 methodology and they are treated as hardwoods. So we don't
7 believe that it's appropriate to use a botanical definition
8 for the purpose of determining a commercial use.

9 MR. GETLAN: Myles Getlan, for western red cedar
10 Cedar. I wouldn't say that western red cedar is a hardwood,
11 but by the same token it's a softwood, but a separate like
12 product for all the reasons that I've described.

13 MR. RUGGLES: Okay.

14 MR. GETLAN: And that we'll describe in more
15 detail in our post-conference.

16 MR. RUGGLES: And then the other is your
17 contention that it's SPF, Canadian; southern yellow pine,
18 U.S., those are the two big dogs, right?

19 MR. NICELY: The two largest species at play in
20 this market, yes.

21 MR. RUGGLES: Does southern yellow pine get
22 shipped to Canada at all? In any meaningful way, let's put
23 it that way.

24 MR. NICELY: To our knowledge, no.

25 MR. RUGGLES: And the allegations would be the

1 SPF challenges SYP and the U.S. market.

2 MR. NICELY: Does it challenge SYP in the U.S.
3 market?

4 MR. RUGGLES: Does it compete against it
5 head-to-head or they're just two different things and
6 there's no competition?

7 MR. MILLMAN: There's competition in certain
8 areas. Framing would be the least amount -- yeah, southern
9 pine is not to deal. As I showed you in my sample for framing
10 it's not good. In roof trusses, they could compete in some
11 areas because roof trusses are by a stress rate. It's call
12 MSR lumber.

13 MR. RUGGLES: Right.

14 MR. MILLMAN: And southern pine makes MSR lumber
15 and Canada makes MSR lumber, so in those markets they could
16 compete.

17 MR. MILLMAN: But according to the
18 specifications used, SPF, to give you an example, for a
19 number two lumber has an 800 fiber bending strength. That
20 means at 800 pounds that would break. Southern pine, on the
21 other hand, has a 1400 fiber bending rating. So southern
22 pine has certain characteristics that exceed spruce where
23 they don't compete. Like in roof trusses, you couldn't use
24 SPF where the architect specified southern pine because the
25 characteristics of the wood wouldn't match.

1 So I would say, overall, in framing they do not
2 compete. They could compete in roof trusses, but it'd have
3 to be a certain grade. It would have to be not all spruce
4 is equal to southern pine, by definition it's a lighter
5 wood, if that helps you a little bit.

6 MR. RUGGLES: Yes, it does. Thank you.

7 And then lastly, when the builders are
8 purchasing lumber, when you're going through your bundling I
9 would assume that you get trusses, you get studs, you get
10 whatever, you'd buy them individually. Do you buy them as a
11 bundle, all different things; therefore, you'd have the
12 southern yellow pine in with the SPF?

13 MR. RUTENBERG: We buy them individually. The
14 trusses are one separate purchase. You may have some
15 framing to fill in some section, valley sets, but normally
16 those would come out with the truss set from the truss
17 company if they do it right.

18 We split up our wood when we purchase it. We
19 actually do a line-item pack. Our line items we do our take
20 offs and we have it down to the stick and that's how we
21 price it out. Nobody's going to have all the wood delivered
22 at one time because it disappears, but not into your house
23 and so we break it up in separate loads.

24 Suppliers do not like to be cherry picked and
25 there's normally some breakdown -- you know everything is

1 priced individually. It's selected individually and it's
2 probably bought in bulk as a framing package.

3 MR. RUGGLES: That's all I have for now.

4 MS. HAINES: Ms. Turner.

5 MS. TURNER: Good afternoon. Thank you for
6 joining us today and answering our questions, which will
7 probably be quite a few of them.

8 Let me start with the legal question,
9 domestic-like product, that's the first thing the Commission
10 will consider, so let me first ask. I have some specific
11 questions for Mr. Groden and Mr. Getlan.

12 But let me first ask the others whether, in
13 fact, they are alleging they're a separate like product or
14 that they, for purposes of the preliminary investigations,
15 agree with the proposes single-like product.

16 MR. NICELY: On behalf of the Government of
17 Canada, we don't plan to address any other like products in
18 the post-conference brief. We support arguments made by the
19 other parties and any arguments that would lead to the
20 limitation of the extent of any relief, should it be
21 granted, but we're not going to address it in our briefs.

22 MS. TURNER: So that is one that you're not
23 raising a single domestic-like product and you're not
24 opposing the single domestic-like product for purposes of
25 the preliminary?

1 MR. NICELY: That's right.

2 MS. TURNER: Okay, so any of the other parties,
3 homebuilders? No?

4 MS. MOWRY: No. On behalf of NAHB, no, we don't
5 plan to address that either.

6 MS. TURNER: BC, I know you didn't testify, but
7 you are here.

8 (Pause.)

9 MS. TURNER: So let me then get to asking
10 specific questions about the like product. So why don't I
11 start with the western red cedar? Now this argument was
12 made similarly in the 2002 investigations.

13 First, what's changed in terms of why is this
14 different? At that point in time, I believe, also there was
15 actually a difference between indicating that western red
16 cedar should be a specific like product, but not other
17 cedars. That those should not be a separate like product or
18 redwood as well; is that still what your argument is now?

19 MR. GETLAN: So a couple of things there.

20 Again, Myles Getlan.

21 I'm familiar with the record that was developed
22 for treating western red cedar as a separate like product in
23 the 2002 investigation and I would say I believe that the
24 Commission got it wrong thing. I think the record supported
25 separate like product treatment. We think sort of the

1 analytical framework that was used in that case was
2 incorrect.

3 Mr. Feldman alluded to it as well. It was
4 essentially a shared characteristic here or a shared end use
5 there, pointing to different species treating everything as
6 a same like product and we think that's incorrect. It's
7 really no different than treating most primary steel
8 products as a single like product and the Commission has not
9 done so there, so just --

10 MS. TURNER: They have actually done that in the
11 safeguards case.

12 MR. GETLAN: And directly competitive, so we
13 think in 2002 the record supported it then. There are some
14 differences this time around as well and the market has
15 changed a little bit. There was a fair amount of discussion
16 last time on decking, sort of interchangeability or
17 perceived interchangeability between treated pine and
18 western red cedar. I think the way the market is
19 developed, particularly, with respect to non-wood
20 substitutes, premium composites it'll show more definitively
21 in this case than it did in the last case that western red
22 cedar and southern yellow pine are not competing in the
23 decking market.

24 MS. TURNER: I understand your distinction of
25 trying to distinguish it between the extreme of southern

1 yellow pine, but I guess what I'm looking for because the
2 Commission does look at this for a clear dividing line and
3 from one end of the spectrum to another, yes, there's always
4 going to be a clear dividing line; but I'm asking what about
5 white cedar?

6 I just had a house re-shingled with cedar and
7 there was a choice between white or red cedar, so why would
8 this be different? Why would western red cedar be different
9 from white cedar, per say, or on the other thing redwood,
10 which is another type of end product?

11 MR. GETLAN: Redwood is an example, like the
12 others, where availability -- particularly, redwood
13 availability is so limited and the quantities we're talking
14 about with some of these other cedars are so limited that we
15 don't think it should drive the analysis.

16 That said, again, it goes to this issue of is
17 there a shared physical characteristic or end use between
18 one or more species. You know perhaps, both sides are
19 arguing it. You're going to find that in the record, but I
20 think I was focusing on in showing you with the
21 advertisements and the marketing of western red cedar and
22 you listened to what purchasers have to say and all the
23 participants in the market this really operates as a
24 distinct industry.

25 I mean western red cedar, yes, it may as a --

1 the timber may share certain botanical characteristics, as
2 Mr. Feldman has referred to, but this is an industry unto
3 itself. It's marketed as such and customers, purchasers,
4 distributors perceive it as so and so again.

5 MS. TURNER: I guess, again, I don't understand
6 where you're putting that distinction between white cedar,
7 say, and western red.

8 MR. GETLAN: Well, at the moment, we are putting
9 the lines around western red cedar.

10 MS. TURNER: But I'm trying to understand how
11 that is different -- those two are not marketed as truly
12 competing --

13 MR. GETLAN: You see here with the
14 advertisements that we've just -- a couple for the staff
15 conference and for your perusal, this is not all cedar.
16 This is western red cedar. This is from the Western Red
17 Cedar Lumber Association. They are not marketing all
18 cedars, so the industry -- and I view the industry as
19 manufacturers and distributors and the end users -- they all
20 perceive western red cedar as unique and they drive the
21 value from it, extract the value from it and that's why it's
22 its own industry.

23 MS. TURNER: If you can clarify more in terms of
24 using the six factors that the Commission looks at --

25 MR. GETLAN: Of course.

1 MS. TURNER: -- for a domestic-like product
2 because you're talking about a perception, which I'm not
3 even sure I understand. The marketing is one aspect. The
4 customer perception I'm not sure is entirely there as well,
5 so I mean if you can explain that.

6 MR. GETLAN: Of course.

7 MS. TURNER: And not doing it relative to
8 something at one of the spectrum, but doing it at something
9 that is a much closer end of the spectrum.

10 Do you intend to also put forward a request to
11 Commerce to try to exclude this from the scope?

12 MR. GETLAN: We haven't decided that yet.

13 MS. TURNER: Okay. Because it sounds like a bit
14 more of a scope -- .

15 MR. GETLAN: Well, it's not mutually exclusive I
16 would say.

17 MS. TURNER: If the Commission -- I mean in
18 terms of the handouts that we have here it shows, I believe,
19 2 percent -- or maybe I have these backwards, but 2 percent
20 of the domestic industry is western red cedar and 4 percent
21 is the Canadian imports are western red cedar. So is there
22 even the ability for the Commission to have a domestic
23 industry data for western red cedar or would they have to
24 use a product line analysis?

25 MR. GETLAN: We'll look to provide as much as we

1 can for our post-conference I think in the -- you know at
2 this point I don't think the Commission, through its
3 questionnaires, solicited western red cedar specific
4 information. The petition has alleged anything with respect
5 to western red cedar and there's nothing so far, other than
6 in questionnaire responses some participants talking about
7 --

8 MS. TURNER: Well, in part, because it's not
9 raise for now. We've completely closed that door in 2002,
10 so that's why I'm asking if there was something different
11 and that's why the Commission hasn't asked for something at
12 this point in time.

13 MR. GETLAN: Of course, we recognize that and we
14 will be putting as much detail as we can that's available in
15 our post-conference brief. But again, we think that the
16 facts are such, even on the record of the last case, but as
17 supplemented. You know that was 15 years ago. Things have
18 changed.

19 MS. TURNER: Elaborate actually on how that's
20 changed.

21 MR. GETLAN: Yes, absolutely.

22 MS. TURNER: Okay, thank you.

23 Mr. Feldman, in terms of the two like product
24 arguments that you're making, white pine being one, on that
25 there are other pines as well as other woods that are not

1 necessarily used for framing materials as well and so I
2 understand that you did indicate that in your
3 post-conference brief you would elaborate more using the six
4 factors. I would ask you to do that in terms of not again
5 the structural, but as for more of products that are
6 actually used for -- I don't want to say their decorative
7 purposes, but they're definitively a grade that you would
8 find on your white pine.

9 MR. FELDMAN: We're not offended by decorative
10 purposes.

11 MS. TURNER: But why that is, this white pine is
12 distinctive or eastern white pine, in fact, is distinct from
13 any of those other products that also would be used as
14 decorative as opposed to, yes, there might be you know the
15 southern yellow pine and the SPF that is used for purposes
16 of -- for framing, but there's also other in the whole
17 spectrum why this one is --

18 MR. FELDMAN: Well, with respect, I hear you
19 sliding back into the continuum and that's not the subject
20 of the petition. So just to give you one example, the
21 average prices for the subject of the petition most recently
22 that we found, SPF southern yellow pine are between \$297 and
23 \$367 per thousand board foot and eastern white pine has been
24 a fairly steady price, not fluctuating at \$875. These are
25 not comparable. They're not used in the same way. And

1 through all of the criteria that the Commission uses, we'll
2 walk you through all of those criteria.

3 What's changed is that the Commission in other
4 cases has begun to recognize more this distinction in like
5 products, as I indicated in my remarks and we'll identify
6 those specific determinations in our post-conference brief.

7 The point being that the law has also,
8 therefore, changed. The Commission from 15 years ago has
9 recognized these distinctions and the issue here is not, in
10 our view, whether we are going to distinguish eastern white
11 pine from Idaho white pine. Idaho white pine is not used
12 any more to hold up the house than eastern white pine is,
13 but if there's nobody here concerned about Idaho pine, then
14 there's nobody here concerned about Idaho pine any more than
15 there seems to be anybody here concerned about different
16 cedars.

17 So someone has come forward saying western red
18 cedar is different and we have come forward saying eastern
19 white pine is different. What other cedar or pine
20 manufacturers may have been interested in we don't know.

21 MS. TURNER: Wouldn't you, just to carry that
22 argument further, if you actually made that argument to us
23 as for all the different kinds of decorative pines and not
24 just the one that you're representing, but all of those are
25 something distinct from the more framing material is more in

1 line with what the Commission looks at when it looks for a
2 clear dividing line between different types of products?
3 The same with the cedars, if you had a broader thing of all
4 the cedars you go through the factors and you find as for
5 when you're making it a specific to something that you're
6 representing isn't that more what you make to Commerce to
7 exclude the product?

8 MR. FELDMAN: We're paid to represent our
9 clients. Our clients are interested in these products, but
10 in every one of the dimensions that you consider in the
11 Commission, these products are distinct. Now, are they
12 distinct from other pines or other cedars? I have no idea,
13 candidly.

14 What I do know for sure is that they have
15 nothing in common with the gravamen of the petition, which
16 pointed you in the petition to four comparisons and talked
17 this morning entirely about things that hold up houses and
18 these things won't hold up houses.

19 MS. TURNER: The Commission takes the scope as
20 it gets it from Commerce. We have nothing to do with what
21 the scope is. That's why I'm asking if you do go --
22 planning to go to Commerce and look for an exclusion when
23 you're dealing with a distinct product, but if you can make
24 your -- make your case as well as in your post-conference
25 brief for why this is something that would actually be

1 distinct from those other kinds of materials that might
2 actually be in that end of the spectrum that your products
3 are as well as the product line analysis could we actually
4 do something.

5 MR. FELDMAN: We'll be happy to do that,
6 although I'm struggling with this notion of a spectrum. The
7 fact that it's a conifer they bought and they made it a
8 softwood does not make it similar to other wood. All wood
9 is not all wood, but we'll do as best we can to meet the
10 question you're raising, although I am struggling to
11 understand it precisely.

12 MS. TURNER: Okay. I mean if there's something
13 I need to elaborate on, on it, we'd just like to go through
14 the six like product factors as per your one product.

15 MR. FELDMAN: That's exactly what we intend to
16 do.

17 MS. TURNER: And look at it distinct from other
18 pines or other cedars as opposed to at the complete other
19 end of the spectrum. So thank you for that in terms of -- I
20 guess in terms of the bed frame components we've also looked
21 at that, but if you also can make the argument on that as
22 distinct from other re-manufactured products because bed
23 frames isn't the only one. I believe actually in the past
24 you had flanges that you had looked at and there's many
25 others. I'm just saying why that one would be distinct to.

1 MR. FELDMAN: Well, we have the question as to
2 why the radius ends of the components are considered a
3 different like product, but the square ends are not when you
4 need them both to make a bed frame. Somehow the Commission
5 concluded that. We don't understand how. It's one piece.
6 The components make up the bed frame. You need both things.
7 You need the square end and you need the radius end and you
8 can't glue them together to make a stud, so already part of
9 it has been found to be different.

10 MS. TURNER: Well, is that the Commission doing
11 that or is Commerce excluding it from the scope?

12 MR. FELDMAN: The Commerce Department excluded
13 it from the scope.

14 MS. TURNER: Which again, we have to take what
15 we get. I mean if you're proposing that the Commission
16 expand the scope to include something that Commerce did not,
17 then that's something the Commission can look at. We can
18 make the like product broader than the scope, but we can't
19 exclude something from the scope. I mean that's statute.

20 I'll move on to some other questions. My
21 question that I had asked this morning, and this is more on
22 the substitutability issue, dealing with -- Mr. Dougan, on
23 Slide 12, I had asked actually the question and I'd quoted
24 from the Commission's opinion in 2002, the comment that the
25 Commission noted that the parties disagreed regarding the

1 level of substitutability between subject imports and the
2 domestic-like product.

3 The Commission, however, found that after
4 carefully considering in the record, we found on balance
5 that subject imports of softwood lumber from Canada are at
6 least moderately substitutable for domestically produced
7 softwood lumber. As we've recognized in prior
8 investigations, Canadian softwood lumber and the
9 domestic-like product, generally, are interchangeable,
10 notwithstanding differences in species and preferences. In
11 particular, the evidence in these investigations
12 demonstrates that subject imports and domestic species are
13 used in the same applications.

14 And you've actually got a quote on page 12,
15 which is actually from the public report. Instead of II-7,
16 it's II-5, that indicates that species was cited most
17 frequently as purchasers primary factor in buying decisions
18 while quality was cited most frequently among the top three
19 factors. But on page 2-8 of the public version of the
20 Commission's report, it also noted that purchasers were
21 asked if they have ever switched between different species
22 of softwood lumber for use in the same applications.

23 And of the 57 responses, 32 responded yes and 25
24 responded no. So the Commission then actually on that it
25 indicated as well that the substitutions were -- one of the

1 primary areas of substitution were Douglas fir, Hem fir and
2 SPF were cited most frequently.

3 Now I understand the arguments that you've made
4 about southern yellow pine, but isn't actually about 40
5 percent of the domestic industry, Douglas fir, Hem fir in
6 addition to some SPF and that that competes it sounds like
7 directly with the 87 percent I believe your slide has of
8 SPF?

9 MR. DOUGAN: Hi. Jim Dougan.

10 It is true that about 40 percent of U.S.
11 production -- I believe that's the number. It's about 40
12 percent of U.S. production is Hem fir, Doug fir and SPF as
13 compared to the 87 percent of SPF in Canada.

14 I think what's the real relevant or rather an
15 interesting way to look at this or actually the way to look
16 at this is we, I don't think, have ever claimed that there's
17 absolutely no competition whatsoever between these things,
18 but that there's no overlap at all. The question is how
19 much is there actually in the marketplace. So these
20 responses that are quoted at Roman II-8 from the lumber four
21 staff report said did people actually ever switch and you
22 had a certain number that said yes and a certain number
23 that said no.

24 But I think the really actually important
25 empirical evidence on this comes from Dr. Kirgiz's

1 presentation, where there have been studies -- and if you
2 ask what's different now, all the studies that Dr. Kirgiz
3 just cited, and he can discuss them in more detail, have all
4 been done with very large datasets, not 50 purchasers
5 answering questionnaires, but very large datasets about the
6 likelihood or rather the degree of substitutability between
7 the different species and how that's influenced on the basis
8 of price.

9 So the point is, and again, Kivanc, I'll turn it
10 to you in a second. The point isn't whether there is a
11 theoretical interchangeability in some applications. Could
12 someone perhaps use this species for this application and
13 that's a difficult thing to talk about. What the data show,
14 the empirical evidence from a large number of studies done
15 over the past 15 years show that they do that only to a
16 very, very small degree and far, far less than the
17 elasticity of substitution that was presented in Lumber 4.
18 And by the way, the Lumber 4 substitution, at least
19 moderately substitutable, is a change from even Lumber 3
20 where there was a higher degree of substitutability found.
21 So there's an evolution, I think, in the Commission's
22 understanding of substitutability and I think there's more
23 empirical evidence available to the Commission now.

24 Dr. Kirgiz, maybe this is the best time for you
25 to talk about this.

1 MS. TURNER: Let me you, actually though, ask
2 you a little bit more first about that because basically I
3 think what we're saying here is 40 percent of the U.S.
4 industry directly is substitutable with 90 percent, the 87
5 and there's actually 3 percent of Douglas fir or Hem fir,
6 one of those. So 40 percent directly is substitutable
7 because it's the same species. I mean am I not
8 understanding something here?

9 MR. DOUGAN: But I think what the evidence shows
10 is there is even limited substitutability even behind or
11 rather between what you're characterizing as the same. But
12 even between Doug fir and SPF, which are what you would put
13 in the bucket at the same, the evidence shows that there's
14 very low substitutability in practice, in commercial
15 situations of people that there is a change in the quantity
16 of the relative quantity purchased based on changes and
17 relative price. That's evident.

18 MS. TURNER: So Douglas fir from the U.S. and
19 Douglas fir from Canada is not substitutable?

20 MR. DOUGAN: I didn't say Douglas fir.

21 MS. TURNER: Those were the three products.

22 MR. DOUGAN: But now you're talking about 24
23 percent versus 3 percent. You said 40 and 40. I mean what
24 are we -- are we saying that --

25 MS. TURNER: Well, what the Commission had found

1 here that the purchasers indicated that the substitutions
2 between Douglas fir, Hem fir, and SPF were cited most
3 frequently when they indicated that they do switch from 32
4 out of the 57 said that they actually did switch. This
5 wasn't that theoretically. This is actually that they did
6 switch. So I'm asking here -- I mean we had at that point
7 and how much has -- you know I'm looking at the data that
8 you've got here showing me what the percentages are for each
9 of these.

10 I'm not even sure we have the same data for
11 that, but I'm using what your slide said to show that there
12 is this same product. And so the southern yellow pine
13 aside, I mean that's a whole different issue here. I'm
14 looking at what is the same three products that are actually
15 produced in the United States and produced in Canada. And
16 you know there seems to be quite an overlap here.

17 MR. DOUGAN: Well, I mean there's a lot in that
18 sentence and to really read what's underneath it I think
19 would take, first of all, probably access of the
20 confidential record of Lumber 4 and a little bit of greater
21 understanding because it's saying -- you're talking about 32
22 responses and substitution between different species, the
23 Doug fir, Hem fir cited most frequently, but I mean how many
24 was each cited? How many times was each cited? What was
25 the substitution between each that was cited? That

1 information is not contained in the sentence. And so what
2 I'm saying is to develop an understanding of the actual
3 dynamics in the marketplace there needs to be a much more
4 granular comparison to understand it.

5 I mean if you're asking me to accept the
6 proposition that all of this stuff is the same I'm not going
7 to accept that proposition because the evidence says
8 otherwise.

9 MS. TURNER: Okay. But I'm trying to clarify.
10 So you're saying -- I mean I understand that the southern
11 yellow pine versus the SPF or whatever it's more a matter of
12 when you're actually talking about the same species or three
13 different species which are actually all fir products.
14 They're basically different parts of a fir product, but
15 okay, if you can clarify a little bit more because that's
16 what the Commission did find and why it would be different
17 now from that.

18 I then actually would ask Mr. Rutenberg and Mr.
19 Millman because -- and maybe I've not got this right, but I
20 seem to understand from your comments that there was a
21 preference and that there were preference differences for
22 what you would use, but it was not that these were not
23 interchangeable and it's not even theoretical --

24 MR. MILLMAN: Interchangeable and it depends in
25 whose mind. Certain builders like certain things and to

1 them they are not interchangeable. And this morning when
2 the person said all wood is wood I disagree vehemently with
3 and he said everything is based on price I disagree
4 vehemently with. We offer different products at different
5 price. They do not always go with the lower price.

6 Just because spruce was cheaper than fir a lot
7 of people use the fir because they like the characteristics
8 of it. So I think wood is not interchangeable. I think
9 that's the main axiom we ought to get to that their
10 discussion this morning all wood is wood and all people buy
11 on price. I don't believe that. Our company sells a lot to
12 Home Depot and it's not always price.

13 MS. TURNER: But if I went into Home Depot right
14 now I would not find actually a choice. I would get a 2x4
15 that I would get in there is only going to be SPF, unless
16 it's pressure treated and then it would be --

17 MR. MILLMAN: Well, not necessarily.

18 MS. TURNER: Well, my Home Depot because I was
19 in there last week.

20 MR. MILLMAN: We find in most Home Depot markets
21 they buy a lot to do with -- there's two components in
22 lumber. You've got your FOB mill price and your delivered
23 price. In certain markets Home Depot will use fir because
24 it might be in the West Coast. That's where it's produced.

25 Down South they might have good SPF rates there.

1 So to say that they're buying it all on price is --

2 MS. TURNER: You're saying it's regional.

3 MR. MILLMAN: It's very much so. And even in
4 our Midwest market, certain customers prefer fir because
5 they always used it. They don't really care what an SPF
6 stud costs.

7 MS. TURNER: I guess what the Commission has to
8 look at here is, and what they looked at in 2002, was that
9 there were definitely, and they acknowledged, there were
10 different regional preference.

11 MR. MILLMAN: Yes.

12 MS. TURNER: And they're different regional
13 because of supply and there were preferences, but when it
14 came down to whether for a framing -- a wall framing whether
15 you use SPF or southern yellow pine both were
16 interchangeable and could be used and in some parts of the
17 U.S. you would use southern yellow pine because it's
18 prevalent.

19 MR. MILLMAN: You could say it's interchangeable
20 that a person could actually physically do it, but the
21 contractor or the architect makes that decision. In their
22 mind it is not interchangeable. Certain products they like
23 spruce because of the tightness of the wood, the quality,
24 and to them you could say could you build that wall with
25 fir, yeah, but the customer is going to make the decision of

1 what he uses.

2 We offer a variety of products. We have them
3 all. We have fir, hemlocks, spruce, yellow pine, all of
4 them. The customer makes the decision. So when you say
5 it's interchangeable, it's interchangeable in that if you
6 give a guy a hammer he could use any three, but the guy
7 making the purchase decision he doesn't think it's
8 interchangeable. He wants what he wants. And in a certain
9 market if the guy wants spruce, he wants spruce. And in a
10 certain market if he wants Douglas fir, he wants Douglas
11 fir.

12 This morning they talked like everything was
13 price.

14 MS. TURNER: I mean we understand. I mean the
15 Commission thoroughly looked through this as well and we're
16 not saying --

17 MR. MILLMAN: My main emphasis is that the
18 customer is the deciding factor and he does have choices.
19 Nobody's putting a gun to his head to buy what he wants and
20 some of them do buy on price. You do a big apartment
21 project, you get a bid, it's going to be price. You build a
22 custom house it's very distinct what that customer wants.
23 So you have all different customers in all different
24 markets.

25 MS. TURNER: But a header in Georgia might be

1 different species of lumber for the header in Georgia than
2 in Montana or Oregon, say.

3 MR. MILLMAN: No. You have different choices.
4 We buy headers from Georgia, we buy headers from California,
5 we buy headers from Canada and then offer them to the people
6 which one do you want. We offer a southern pine header. We
7 offer an engineered header. We have Douglas fir. It just
8 depends what they want.

9 It's funny. We always kid because we carry so
10 many different SKUs because of all these different
11 preferences. In Russia, if you want a header, you just give
12 the guy a 2x4 and use it. I mean it's just amazing how many
13 -- like I mentioned before, Oklahoma City, they don't like
14 spruce there. They like Douglas fir and they're willing to
15 pay more for it.

16 MS. TURNER: I mean you did indicate your three
17 different --

18 MR. MILLMAN: And it all depends on customer
19 preference and I don't think you can say it's all about
20 price.

21 MS. TURNER: But it is basically that they are
22 interchangeable at size, like you're saying --

23 MR. MILLMAN: It's interchangeable in the fact
24 that could you build a wall with any of them, yes. Would
25 you be happy with the wall?

1 MS. TURNER: But somebody would be happy with it
2 in Oregon would be happy with a header made of one species,
3 whereas as a builder in Georgia or Florida might be happy
4 with a header from a completely --

5 MR. MILLMAN: I'll just give you an example.
6 We're doing an apartment project in Colorado, and the guy
7 specifically put on there we do not want any southern pine,
8 because they've had problem with crooks. He builds the
9 apartment. He builds the apartment. He has to come in,
10 redo the walls. So there are certain places where people
11 say we do not want this, we do want that.

12 So I think the biggest difference in our
13 presentation this afternoon and the morning presentation is
14 they came up with everything all wood's the same, it's all
15 price. I disagree with that 100 percent, and I see that in
16 our markets. If it did, if it was, we'd just always buy the
17 cheapest thing and wouldn't buy anything else. We have all
18 difference price ranges.

19 And you know what's funny? A lot of times the
20 higher price sells for the lower price, just contrary to
21 what you would believe. People don't want, you know. We
22 sell to Home Depot a lot. They want the high quality and if
23 it's SPF they'll buy it, they'll pay the price because the
24 returns in business cost a lot. You've got huge labor
25 figures. So a person wants a piece of wood that's going to

1 work for him, so he doesn't have callbacks. I've seen that,
2 right.

3 MR. RUTENBERG: I really agree that I do not
4 agree with people buy just on price. So what's -- I'm going
5 to say something about the modeling and other things, but
6 I'll start out by saying I have a lot of admiration for Home
7 Depot as a company. But a lot of their buyers are not the
8 builders. The builders are not, at least in my part, the
9 builders are not buying their lumber packages from Home
10 Depot.

11 They're selling to people who are doing
12 additions and the other stuff. Figures are from ten
13 years ago, but I hope it's not correct anymore. But 80
14 percent of remodeling in this country is done without a
15 building permit. They're not going through codes, not going
16 through other stuff.

17 You're building a bookcase, you know. You think
18 they know the technical stuff up between SPF, hem fir. I
19 mean they don't, and the reason that it was said this
20 morning that Home Depot wants number one and number two, and
21 the number three and four goes somewhere else. You're
22 exactly right, because I was with Home Depot executives and
23 they were saying, you know, if somebody comes and says this
24 is not a pretty stud, they'll take it back and they'll ship
25 it back to the supplier and say I want a pretty stud in its

1 place. I mean it's done in large numbers, but that's
2 essentially it.

3 It's different, and yes there is some
4 substitutability between certain regions and certain things.
5 Not between SPF and southern yellow pine, hardly. You know,
6 that one, I don't see the substitutability. That's very
7 species. You may see some hem fir, you know, headers in the
8 price, or certain yellow pine that's expensive to be shipped
9 to. I mean you'll see some things on fringes between areas.

10 But in the eastern U.S., in my shop, we don't
11 see anything but all of trusses are southern yellow pine,
12 and nobody's doing studs out of southern yellow pine.
13 Whether they do headers out of one or the other, I've seen
14 some variation. Most of the headers are southern yellow
15 pine. It's not the biggie.

16 You have these separations, and the
17 professionals who are doing most of the buying for the
18 homebuilding industry know the difference in the species,
19 and I'll make a guess. You know, in some places southern
20 yellow pine allows me to do larger spans, more creative
21 trusses. If I was going to do it out of another species
22 like SPF or fir or Douglas, I might have to use bigger
23 members, and I'd have to use more vertical webs or more
24 plates and they have other expenses.

25 You're not dealing with anything that's simple,

1 but there are -- you do come back to some common absolute
2 cores. We're buying -- the homebuilders are buying species
3 and on performance. A home is a system. It's everything
4 put together. It's not individual pieces. If I took a
5 chance on another species of wood and it didn't work out,
6 I've got a really humongous problem.

7 It isn't the cost of replacing the stud. I'm
8 going into your house, and I'm taking the drywall off, I'm
9 changing the studs out. You've done some remodeling, I can
10 tell by -- you know, just think of the complications. Those
11 are not risks -- okay. Those are not risks I'm going to
12 take.

13 MS. TURNER: Well, you've got a leak and you
14 have to get back.

15 MR. RUTENBERG: Thank you very much. I rest my
16 case. But that's why we go back to what we're comfortable
17 with and what performs.

18 MS. TURNER: Okay, no. Thank you very much.
19 That's been very helpful. Let me get back to some of the
20 other questions I had here. Mr. Parnes, you had in your
21 testimony you cited to the letters in the 2006 letters that
22 were done by the domestic industry. Aren't those standard
23 types of letters that were done, and they were done in 2006
24 I understand at the time that the agreement was put in
25 place, which the domestic industry typically is required to

1 do, to have the agreement signed?

2 MR. PARNES: Yes absolutely. The domestic
3 industry has done letters like that before, and in this case
4 they signed letters that said we represent that we are not
5 injured under the terms of the SLA. They may be standard,
6 but that's what they said.

7 MS. TURNER: But wasn't that at the time of 2006,
8 when the agreement was actually being signed?

9 MR. PARNES: No. In fact the letters, and I may
10 get the exact language wrong and I apologize. On our
11 slide, it's probably fairly small. But no. It recognizes
12 that market conditions might change, and that during the
13 term of the SLA, which obviously continues into the future
14 and then was renewed in 2013, what they represented is that
15 even with changing market conditions that may happen under
16 the term of the SLA, we're not injured. We won't be
17 injured.

18 So it doesn't -- it didn't apply just to that
19 moment in 2006 when they signed.

20 MS. TURNER: Well, even saying that we're
21 supposed to carry this forward through the whole agreement,
22 when as I said these are pretty standard things that the
23 industry's required to do by Commerce, my understanding is
24 when they actually will agree to the terms of an agreement.
25 But even saying that, the agreement expired over a year ago.

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So how then does this carry forward for them to say that they're not injured from October of 2015 to now?

MR. PARNES: We're not suggesting -- well first of all, we're not suggesting that it has any binding force as far as whether they were injured after October 2015, okay. Part of POI obviously is before October 2015. So it is relevant to that and directly relevant. But even after October 2015, it may be informative, because what it does is it indicates the conditions under which they've acknowledged they're not injured, and that's the other half of the point.

MS. TURNER: Okay. No, I just wanted to clarify that those are -- the timing on that as well as basically they're fairly standard letters that they do. But if you want to elaborate on that in your post-conference brief, please go ahead and do so.

MR. PARNES: Sure, we'd be happy to do that.

MS. TURNER: I did have actually one other question about actually something that -- there was a characterization I believe by either Mr. Nicely or Mr. Dougan about the Commission finding that there was no injury. In fact, I believe the characterization was finding no volume effects in the 2002 investigation. The Commission

1 did actually in its decision, did indicate that the volume
2 was significant, and then when it did its Section 129.

3 So I just wanted to -- is it the volume they're
4 saying that the Commission found, or was -- because you are
5 indicating that this time period, and maybe again I'm
6 misstating or misheard, that you're stating that now the
7 injury is less what it even was, or the injury that the
8 Commission didn't find in 2002?

9 MR. NICELY: Jim and I may have both talked
10 about this, but I think our primary point was that the
11 Commission did not find current injury by reason of imports.
12 At that time, at that time, Canadian market share was higher
13 than it is today. So the point is that if we're looking at
14 market share, and then ^^^ and you found no current injury
15 at that time and if it were solely looking at market share,
16 but of course that's not the only thing we ought to be
17 looking at.

18 But if we're solely looking at market share,
19 then consider that in the context of what happened in 2002,
20 when you found no current injury by reason of imports.

21 MS. TURNER: Well but the Commission did
22 indicate in its 2002 that it did find that the volume in
23 absolute terms relative to consumption was significant. So
24 it made a volume effect finding in its -- it was because it
25 couldn't determine whether the price effects were due to the

1 domestic industry or the oversupply by the domestic industry
2 or by the Canadian imports.

3 So I'm just saying it wasn't the volume that the
4 Commission was making its no present material injury
5 finding on.

6 MR. NICELY: Well, in any case, obviously the
7 combination of the two play into this, and obviously at that
8 time, as I mentioned in my testimony, prices were at a very
9 different place. They were going down at that time whereas
10 now they've been going up since the expiration of the SLA.
11 So when you put the two together, our point is in light of
12 the facts, both with respect to volume and with respect to
13 price, if you determine then that there was no current
14 injury by reason of imports, there's no way you can find
15 that there's current injury by reason of imports today.

16 MR. DOUGAN: Well, and just to add to what Mr.
17 Nicely said, the financial performance of the domestic
18 industry is in quite a different place now. I mean
19 literally ten times as good as it was then. So even leaving
20 this -- I mean again, it's a constellation of factors. It's
21 not just market share. It's not just this. So the -- in
22 the course of discussing market share as one of the factors,
23 that was the reference point.

24 If you found no current material injury with a
25 higher market share and way worse financial performance, how

1 are you going to then by that standard find injury in this
2 current proceeding.

3 MS. TURNER: How should the Commission take into
4 account -- I mean at that point in time the Commission was
5 taking into account the fact that the agreement, the
6 agreement that had been in place at that point ended the --
7 two days before the petition was filed. So there was
8 basically a market that was under an agreement for the whole
9 time.

10 This time, there is a full year. So the
11 Commission be focusing more just on that year, that in fact
12 that there hasn't been an agreement in place here? As I
13 said, back at the time period of the 2002 investigation, I
14 mean the Commission did not have any time period which it
15 was looking at. Here, you do have one year, a little over a
16 year for the Commission to be looking at.

17 MR. NICELY: The answer is we think it's
18 critical that you have that year in this case, and yes, we
19 think you ought to be looking at the post-SLA period. And
20 yes, we think it improves our case dramatically as compared
21 to last time, because you would have thought that in a
22 period of -- without an SLA, with a free trade in a free
23 trade context, truly free trade, not even an SLA in place
24 with the possibility of export measures going into effect,
25 you would have thought, given the rhetoric that you hear

1 from the domestic industry, that things would have gotten a
2 lot worse with additional imports coming into the market,
3 which in fact happened.

4 But in fact it didn't get worse. Things got
5 better for them, dramatically better for them, as we showed
6 you that Weyerhaeuser and Potlatch have made clear, and as
7 your questionnaire data is going to make clear as well. So
8 that additional year actually gives you the opportunity to
9 see what happens during a free trade period of time, which
10 you didn't have the benefit of in the last case.

11 MS. TURNER: Okay. There are Canadian -- there
12 are U.S. companies who own Canadian importers, as well as
13 some Canadian companies or some Canadian companies now down
14 in the United States who are domestic producers. Can you in
15 post-conference brief, whichever parties want to, but
16 please elaborate on whether you -- how the Commission should
17 consider the related party issue, whether the Commission
18 and, you know.

19 I asked Petitioners this morning to address
20 this, even if they're not going to, you know, propose that
21 anybody be, you know, not be excluded as a related party.
22 The Commission still has to address this issue, so we'd like
23 to hear your reasoning as to why related parties shouldn't
24 be excluded or should be excluded in your post-conference
25 briefs?

1 MR. NICELY: Understood. We'd be happy to
2 address that, or some of the parties will be happy to
3 address that in the post-conference.

4 MS. TURNER: Okay, thank you, and we -- Mr. Bird
5 indicated in his discussion went through the Canadian
6 stats, and why the Canadian stats were a better data source
7 for the Commission to use and why, and that was -- thank you
8 for that. Are there other data issues or there data that
9 you think are better sources than, and the Commission
10 typically in this case has used a lot of, you know, uses its
11 questionnaire responses. But it also has to use random
12 lengths and, you know, there's a whole assortment of
13 different publications that the Commission uses.

14 If you in the post-conference brief can actually
15 discuss which of these that you think are -- the Commission
16 should be using, as well as why, you know, or why not the
17 Commission should be. I had also asked the question about
18 demand, and to look at there had been some other
19 discussions, some comments about looking at, you know, it's
20 not just new housing starts.

21 There's a lot of lumber that is used for
22 remodeling and repairs. So for demand during this time
23 period, as well as demand into the imminent future, if you
24 can actually also provide us with your thoughts on -- and
25 provide, if you do have studies or provide us copies of that

1 too.

2 I think the last question that I have is
3 actually -- well, it's for all, but directed then Mr.
4 Feldman as well on the subsidies issue, and to actually
5 discuss how the Commission, the Commission by the statute,
6 if it is a threat case, the Commission is required to look
7 at the nature of the subsidies. But the Commission is to
8 look at what Commerce has presented to it, and thus what
9 should the Commission do and how should the Commission look
10 at what is presented to it by Commerce?

11 And my then further question for Mr. Feldman is
12 your -- I didn't take it that you were trying to indicate
13 that we should be looking behind Commerce on the subsidies
14 issue, when you indicated that we should be looking at
15 separate provinces as if they were separate countries?

16 MR. FELDMAN: We are not saying that the
17 Commission should look behind anything that the Commerce
18 Department does and never suggested that.

19 MS. TURNER: Well I'm --

20 MR. FELDMAN: The Commerce Department will
21 provide you, will have in its final determination,
22 regardless of how it conducts its investigation and we don't
23 yet know the answer to that, whether it's going to conduct
24 an aggregate investigation or it's going to investigate
25 individual companies. We don't know. But regardless, the

1 central dispute you heard this morning is about stumpage,
2 and you heard this morning also that stumpage is an issue
3 for each province, and each province has its own system for
4 selling cutting rights.

5 Now the rest of what you heard we probably
6 disagree with. But that much we agree. It's a provincial
7 case. If individual companies are examined, the stumpage
8 analysis will have to be with respect to the province in
9 which they operate. If it's an aggregate case, the
10 department will have to examine stumpage in each province,
11 because each system is different.

12 Now in both British Columbia and Quebec, there
13 are now auction systems, highly competitive, significantly
14 more competitive often than in the U.S. forests. So what
15 you heard this morning about how there's no competition and
16 prices are just fixed and so on, this comes from some other
17 place in time that has no connection to the reality today.

18 So each province will have its own system, and
19 the Commerce Department will be required to calculate rates
20 for each one. It may come out de minimis. It may come out
21 zero. It may calculate a rate. In each instance, you will
22 have that separate information. The Commerce Department
23 will provide you with that separate information. What we're
24 saying is that's part of the nature of the subsidy, which in
25 a threat determination you'd be obliged to examine.

1 MS. TURNER: But how would -- I guess -- so to
2 examine, how would the Commission examine (sic)? I mean
3 --

4 MR. FELDMAN: So the -- I'll posit for the
5 moment that in Quebec, there is now an auction system,
6 highly competitive, market-driven, modeled in some degree
7 after auction systems in the United States, but having
8 perfected them. There's a good chance that if the
9 examination is done fairly, the Department of Commerce will
10 deliver as a result that it finds no subsidy in Quebec, and
11 you will have that information.

12 The question becomes do you consider that
13 information? We think you're required to consider that
14 information because the only legal basis upon which Commerce
15 made that finding was by implicitly or explicitly regarding
16 each province as a country, as far as the statute is
17 concerned. That means that you would examine the results of
18 the investigation in each country.

19 MS. TURNER: But isn't the Commission by the
20 statute what we're told to look at is we've got two
21 different actually provisions here, but we're told to look
22 at -- for subsidies. We're told to look at, presented by the
23 administering federal. "If the -- is involved, such
24 information as may be presented to it by the administering
25 authority as to the nature of the subsidy, particularly as

1 to whether the countervailable subsidy is a subsidy
2 described in Article 3 or Article 6.1 of the Subsidies
3 Agreement, and whether imports of the subject merchandise
4 are likely to increase."

5 So if they're not Article 3 or 6.1 subsidies,
6 then what is it the Commission is looking at?

7 MR. FELDMAN: Are you suggesting that the
8 Commission, unless it's an export subsidy, doesn't consider
9 the nature of the subsidy at all?

10 MS. TURNER: I'm asking you how the Commission
11 should be ^^^^ I mean I'm really asking for how you -- what
12 you, and this is something maybe that's a little bit more
13 for a post-conference brief. But if you can elaborate on
14 how the Commission or what the Commission, you know, should
15 be looking at when it's looking at the nature of the subsidy
16 here, based on what the statute tells us, as well as the
17 fact that we don't look behind Commerce. Oh sorry. I
18 moved. I moved this way, sorry.

19 I'd actually, if post-conference brief would be
20 fine to elaborate on that. But that's basically -- I'm
21 just trying to get around what it is actually the
22 Commission, and the Commission has -- this question has come
23 before the Commission before. I mean I'm not sure that --

24 MR. PARNES: So if I may, we'll address this
25 further in our post-conference brief. But I do think it is

1 important whether it's an export subsidy, and I think what
2 Mr. Yocis has said earlier is right, is that technically we
3 don't have an export subsidy here. So the question under
4 the statute is whether, given the nature of the subsidy,
5 imports of the subject merchandise are likely to increase.

6 In other words, are we subsidizing exports such
7 that it's likely to increase? With respect to stumpage,
8 there's no evidence, either empirical or economic, that even
9 if there were to be found a stumpage subsidy, that that
10 would cause imports into the United States to increase.
11 And you know, we agree completely with Mr. Yocis, is that
12 there really isn't an export subsidy here that the
13 Commission can consider.

14 Ultimately, I think as he described it, when he
15 talks about the nature of the subsidy, it's really just
16 about the perception of the U.S. industry and why they are
17 upset about certain things. That really, their being upset
18 about certain things that they think are going on north of
19 border is not directly relevant to the Commission's
20 determination.

21 MS. TURNER: And of course this only applies if
22 the Commission makes a threat determination as well. So
23 thank you, and I will turn this over to Mr. Benedetto.

24 MR. BENEDETTO: Thank you. Thank you all very
25 much for coming here today, and as I said to the other

1 panel, if any of my questions touch on anything business
2 proprietary, please feel free to just tell me and answer in
3 the post-conference brief. I'll try to be quick. So I
4 think if I remember correctly, I heard this morning that
5 overall, softwood lumber prices are lower now than maybe
6 even back in 1977 I think I heard, and that's not
7 necessarily inconsistent with what you all have been saying,
8 that prices are rising recently.

9 But is that true that prices now are a low lower
10 than in the past, and if so, why? If you can tell me, give
11 me some background as to why prices are lower now than in
12 the past?

13 MR. NICELY: Can we talk about what period in
14 the past you're thinking of?

15 MR. BENEDETTO: Well, I heard 1977 this morning,
16 which I know is a long time ago. But are prices not lower
17 than in say the recent past?

18 MR. NICELY: They've fluctuated a lot. They're
19 -- on an average basis, today they are -- they are higher
20 than they were at the time you looked at this in Lumber 4
21 importantly. And so that's a critical factor. Obviously,
22 they were low during the period, the housing crisis, the
23 recession. But they've fluctuated dramatically over the
24 last 20-30 years, yes.

25 MR. BENEDETTO: Do you have any -- and you can

1 do this in the post-conference brief, but why have they
2 fluctuated so much? What's been driving -- I mean besides
3 obviously the housing market collapse would have been part
4 of it. But is that the only thing, or are there other
5 things going on long-term that would make prices go down or
6 --

7 MR. DOUGAN: Certainly part of the fluctuation I
8 think ends up having to do with, and I alluded to this
9 earlier, about expectations for demand meeting, being met in
10 reality, and if actual housing starts and building is
11 projected for next quarter to be this, so maybe you get a
12 little bit more inventory. And then they don't build as
13 many houses, and so that may have an effect on prices.

14 But then maybe you underestimate for the next
15 quarter ahead, and then you're short and now you've got to
16 buy more and that drives prices up. I think as everyone
17 agrees, I mean we're not even talking about quarter to
18 quarter here. We're sometimes talking about day to day and
19 minute to minute. This is considerably more volatile
20 pricing than certainly I've seen in any other product that's
21 been before the Commission.

22 MR. BENEDETTO: So you're saying just sort of
23 the nature of the market is that it's going to be volatile?

24 MR. DOUGAN: That's correct. All parties kind
25 of agree about that, by the way.

1 MR. BENEDETTO: Another thing I think I heard this
2 morning was that SPF is usually less expensive than SYP, I
3 believe I heard. I'm hearing you all say they don't compete
4 with each other. Would you agree that SPF is usually less
5 expensive than SYP?

6 MR. MILLMAN: Yes. But once again, it's different
7 characteristics. Different characteristics of the wood for
8 where it can be used. SPF, like the gentleman said before,
9 you could build roof trusses out of it. You would just have
10 to use a lot more because they're not as strong.

11 So once again, when they said oh, wood is wood,
12 it's not true. But each species have different
13 characteristics. SPF is good for light framing. Southern
14 Pine is good for strength. And people will buy it. And it
15 depends. Right now, the Southeast has been, if you look at
16 housing starts, the Southeast has been the bellwether. It's
17 where the action's been. Where is southern pine produced?
18 Down South. So people are using a lot more southern pine
19 and that pushes the price up.

20 MR. BENEDETTO: Does anyone else have anything?

21 (No response.)

22 MR. BENEDETTO: Another thing again I think I
23 heard this morning is that if the softwood lumber meets
24 local building codes in terms of the requirements, the
25 physical requirements, then price, I think they were saying,

1 is going to be the main factor.

2 So if I understand what some of the testimony
3 here today has been correctly, then you're saying that home
4 builders and architects, when they choose between SYP and
5 SPF, or between different types of--between different
6 species, they're not doing so because a building code
7 prohibits them from choosing one or the other, but just
8 because they have a preference for--the architects and the
9 home builders have a preference for one or the other,
10 right?

11 MR. MILLMAN: It could be a little bit of both.
12 In light framing, the stress rating doesn't appear that
13 much. But on the truss part, they would have to specify
14 certain items. It depends what portion of the house that
15 you're using.

16 MR. RUTENBERG: Sometimes you have to, what the
17 building code says is you have to meet a certain standard,
18 certain engineering, and it's up to the customer to
19 determine how to get there as long as it will perform. But
20 it's--that's probably enough. If you want more than that,
21 then we'll get back to you in the post-conference brief.

22 MR. BENEDETTO: Then on slide nine of your
23 testimony, where you say the title--it's the Potlatch slide
24 that says "Canada's ability to supply lumber is
25 constrained," and I don't know if it's you or Potlatch who

1 has two reasons, Mountain Pine Beetle and the reduction in
2 allowable cut.

3 I remember you talking about Mountain Pine
4 Beetle. I didn't catch what you said about reduction in
5 allowable cut. What's that? What happened there?

6 MR. DOUGAN: Jim Dougan here. I think all of this
7 slide is Potlatch, but we agree with this characterization.
8 And so the allowable cut, or the provincial allowances as to
9 how much timber can be cut, and as a result of the
10 devastation of the Mountain Pine Beetle epidemic, there's
11 been a reduction in what's allowed to be cut.

12 And so as a consequence, it's reduced timber
13 supply. And specifically most severely in areas that have
14 been most severely affected by the Pine Beetle. So that the
15 AACs are administered not for the Province as a whole, but
16 for areas within it.

17 And so the areas where the Pine Beetle epidemic
18 destroyed the most trees, you have the greatest reductions
19 in cut. And as I mentioned, that also happens to be ---
20 it's in the BC interior, which is where a lot of the largest
21 BC mills are. And even just over the past couple of years,
22 three of the very large ones have shut down because they
23 cannot get access to timber now.

24 MR. BENEDETTO: Then Dr. Kirgiz, the information
25 you had on the elasticities from the academic paper looks

1 very interesting. If you can, the more of those papers you
2 can give us in the post-conference brief it would be
3 helpful. We don't always have access to every journal, so
4 that would be very helpful to get that.

5 DR. KIRGIZ: Absolutely. Absolutely.

6 MR. BENEDETTO: And one final question is, what
7 can you tell me about Canadian demand for softwood lumber?
8 I guess in terms of what's the size roughly compared to the
9 U.S. market? Is it --- I know it's probably smaller, but
10 how much smaller? And are the trends sort of the same?

11 I know over the last 10 years I've heard little
12 things about certain Canadian housing markets booming.
13 What's going on in the Canadian market?

14 MR. DOUGAN: This is Jim Dougan. I can talk about
15 it a little bit more in post-conference when I've got all
16 the data in front of me. But it is growing. Reese
17 estimates that the total softwood lumber consumption is
18 about one-fifth that of the USA. So if we're at, you know,
19 50 billion board feet, it's 10 billion board feet. And it
20 is growing, but at a slower rate.

21 So virtually all of the growth in consumption and
22 demand in North America right now is coming from the South,
23 although there is some growth in Canada, at a more modest
24 level.

25 MR. BENEDETTO: Thank you all very much. I

1 appreciate your testimony.

2 MS. HAINES: Ms. Berry, do you have any questions?

3 MS. BERRY: Just one to follow up on the Mountain
4 Pine Beetle epidemic. I was just wondering what steps are
5 generally necessary to mitigate an epidemic like this? And
6 what the forecasts on slide 29, if that's based on past
7 experience with these epidemics, and how long it generally
8 takes for a supply to recover in the wake of one of these?

9 MR. DOUGAN: This is Jim Dougan. I don't know the
10 answer to that, but we will ask someone knowledgeable about
11 that. But my understanding of what I've at least read about
12 the Mountain Pine Beetle in particular is it's been so
13 severe that the recovery is not expected for decades, if at
14 all. So this is not something that's going to bounce back
15 in the next 5 to 10 years.

16 MR. PARNES: I would just say, when you talk about
17 mitigation, this isn't something you can spray for.
18 Basically the Mountain Pine Beetle destroys the forests, and
19 then it takes 100 years for them to grow back.

20 MS. BERRY: Thank you.

21 MS. HAINES: Mr. Yost, do you have any questions?

22 MR. YOST: Thank you very much for your testimony
23 this afternoon. I do appreciate it. I've been following
24 with eager interest.

25 I just have one follow-up question to slide 27,

1 Mr. Dougan's presentation. This has to do with new
2 investment, including expansions and restarts of mills.

3 Is the South an anomaly because of the less
4 expensive lumber--less expensive timber? Or if we look at
5 other areas of the country, would we see that the expansion,
6 restarts, new mills, are predominantly in the South?

7 MR. DOUGAN: Jim Dougan. That's an accurate
8 characterization. There are mills being opened other
9 places. There are, as I think I mentioned in my testimony,
10 even in the Northwest some of the mills that have been
11 claimed to being closed or curtailed are actually being
12 replaced by new mills in the Northwest, larger ones.

13 But most of the investment activity has been in
14 the South. And that is driven by a couple of factors. One
15 is, the abundant timber supply and the lower timber costs.
16 The other is the growth in the housing market, which has
17 been strong in the South as well.

18 So the combination of those factors. But, yes,
19 the South is kind of where the action is these days
20 predominantly.

21 MR. YOST: Okay. Thank you very much. That
22 concludes my questions.

23 MS. TURNER: I actually have one more question to
24 John's comment, actually. In the 2002 on page 40, and this
25 is something for the post-hearing briefs, but it is actually

1 something for Mr. Nicely, Mr. Parnes, and Mr. Bird actually
2 would be the ones who probably would be able to respond to
3 this.

4 In the 2002 Commission's final opinion it
5 indicated, "We also recognize that many Canadian Provinces
6 subject tenure holders, lumber producers, to requirements to
7 harvest at or near their annual allowable cut or be subject
8 to penalties, reductions in future annual allowable cuts."

9 And we cited to actually the Canadian Forest Act
10 for British Columbia, I believe, which had a 10 percent of
11 their annual allowable cut over five years and 50 percent in
12 the year anyway or face penalties.

13 If you could elaborate on, in a post-conference
14 brief, what actually--is it still a similar type of
15 requirements that Canadian lumber producers are required
16 when they actually are permitted to harvest land? Is there
17 actually--really, what we're looking at are their maximum
18 amounts that they are allowed to--the required, or minimum
19 amounts they're required to take or they face penalties.

20 MR. NICELY: Those types of laws in Canada have
21 largely gone away. That's a significant distinction between
22 now and then.

23 MS. TURNER: Well providing us as much information
24 on that, and repeals of things like this, that would be
25 extremely helpful, rather than us having to dig through and

1 try to find that. I would definitely appreciate that.

2 So thank you very much.

3 MS. HAINES: Okay, we would like to thank the
4 panel very much for traveling all this way. It was
5 extremely helpful. I have been told by the Secretary that
6 for closing remarks Mr. Yocis has 13 minutes, and Mr. Nicely
7 has 9 minutes. And we will give you about 5 minutes before
8 you come up for closing statements.

9 (A brief recess is taken.)

10 CLOSING STATEMENT OF DAVID YOCIS

11 MR. YOCIS: Thanks. David Yocis on behalf of the
12 Petitioner.

13 Just in closing, I hope I won't take all 13
14 minutes that you've generously allotted. It's been a long
15 day. I just want to thank all of you for your attention and
16 for your questions, for both panels actually. I think it's
17 been helpful to clarify some issues.

18 Let me just say a couple of things. First of
19 all, just to be clear, the subject of the Petition is
20 softwood lumber, not what certain people may think is the
21 subject of the Petition, based on certain topics that come
22 up in conversation or in testimony more often than others.

23 The subject of the Petition is the scope product,
24 which is softwood lumber.

25 Secondly, I want to talk a little bit about the

1 no-injury letters from the Softwood Lumber Agreement. The
2 slide 41 that is the one that I have in front of me here
3 from the Respondent's presentation, and it doesn't have the
4 full letter. And I would like to take a moment to review
5 the full letter when I get back to my office and perhaps
6 have some more in the post-conference brief on it.

7 But I just want to highlight that the
8 representation that is made by the U.S. producer is--may,
9 taking into account all the relevant facts including
10 possible changes in market conditions, and the consequences
11 that the representations will have for the term of the SLA,
12 and those consequences are that the Department of Commerce,
13 and I believe that is what is described in paragraph four,
14 although it's not here, that's just from my memory, that the
15 Commerce Department says it will rely during the term of the
16 SLA but not after.

17 During the term of the SLA, while it's in force,
18 the Commerce Department would rely on this representation.
19 Should some person on the domestic industry file a petition
20 as a basis for rejecting that petition, consistent with U.S.
21 law, because there would be this representation of no
22 injury. But that this representation would end at the end
23 of the Softwood Lumber Agreement and it would have no legal
24 force after the end of the Softwood Lumber Agreement.

25 So it is not an attempt by anyone to usurp the

1 role of the Commission, which is the only body under the
2 statute that has the authority to decide whether there is
3 material injury or threat of material injury to a domestic
4 industry.

5 If the Canadian parties want to give that
6 authority to the coalition, I suppose it would take it. But
7 that's really not an option. This is really for the
8 Commission to decide. It's not for --- it's not for the
9 domestic industry or anybody else to decide. And the
10 representations in these letters were made for a very
11 specific purpose and were not to define injury for purposes
12 of this proceeding.

13 A lot of conversation with both panels today with
14 regard to substitutability and whether wood is wood. I
15 think it is clear that no one is contending that all wood is
16 the same. Different species are different. A 2x4 is not a
17 2x6. Two-and-better dimension lumber is dot economy grade.
18 Everyone recognizes that there are differences, and that
19 consumers have different preferences.

20 The question is whether all lumber is
21 substitutable enough for each other; whether U.S., and more
22 specifically whether U.S. domestically produced lumber is
23 substitutable enough for imports that through our price
24 effects throughout the U.S. market as a result of subject
25 imports.

1 And I believe if we focus on that question rather
2 than all sorts of other subsidiary issues, we get to what is
3 really the heart of the matter. And the evidence I believe,
4 taken as a whole, shows that there are such price effects.
5 And I'm sure if we are so fortunate as to go on to a final
6 phase investigation, that there is a record that will be
7 developed in detail.

8 No one says that prices will move in lockstep. I
9 once saw a survey at Random Length that said Eastern SPF and
10 Western SPF prices do not move in lockstep. And even though
11 those are identical species, because there are always things
12 that go on from one week to the next that cause small
13 fluctuations in the market.

14 But over time, and over relatively short periods
15 of time, prices do move together. There is a Random
16 Length's Framing Lumber Composite Index that has U.S.
17 species and Canadian species all mixed together, and those
18 prices--there is a reason why all those prices are put
19 together in one index. And people attribute meaning to the
20 fact that that index moves up and down because the prices of
21 the various species generally move together because at some
22 level they are substitutable enough for each other that a
23 price change in one species will result in a price change in
24 another specie.

25 And that really is I think, if we focus there,

1 it's entirely consistent with that for there to be
2 individual consumers who say I never change because,
3 frankly, the prices between the different species don't
4 change enough on a regular basis for me to spend time
5 thinking about whether I should switch species, because
6 generally speaking the prices never get far enough out of
7 line for me to even think about that.

8 That is entirely consistent with what we have
9 been saying, which is that the prices are linked together
10 enough, and that the rice effects of subject imports are
11 felt throughout the U.S. market such that the question of
12 some individual consumers never thinking about switching
13 species just never arises to them. Perfectly consistent.

14 The question was asked during the last panel just
15 sort of, you know, what causes prices to go up and down?
16 And I think if you hold supply constant, economists talk
17 about supply and demand curves that cross each other. And
18 if supply is constant, as demand does up you would expect
19 prices to go up. And if supply goes--if demand goes down,
20 you would expect prices to go down.

21 What's interesting in this market is the cases
22 when that is reversed. And that is exactly what we see in
23 the Period of Investigation. We see a period where demand
24 is increasing but prices fluctuate but mostly trend
25 downward, which is suggesting that there's something going

1 on with supply in this market, that supply is increasing
2 even faster than demand. And that is depressing prices for
3 all softwood lumber of all species across the board.

4 And the question is why is there that increased
5 supply in the market during the period of investigation?

6 And it is clear that it is primarily imports and not greater
7 U.S. production that is contributing to the excess supply in
8 the U.S. market.

9 This is true whether you use U.S. Census data, or
10 Statistics Canada data. The trends are the same. The
11 numbers are slightly different, but the trends are the same.
12 The imports are up. Imports are up much more than domestic
13 production. Prices are generally down. Even as they're
14 trying to go up because of greater demand. And that profits
15 are--the financial performance of the industry, taken in
16 isolation, is better than it was but is not where it needs
17 to be.

18 And, that production is down certainly relative
19 to demand, even if not in absolute terms, but definitely
20 down. Capacity utilization is much lower than it needs to
21 be. The number of jobs that are created is lower than it
22 should be because of the loss of production.

23 And so it is true that the market is getting
24 better driven by demand, and a few crumbs and scraps of that
25 better market are coming to the domestic industry. But the

1 domestic industry is not able to be where it ought to be at
2 this phase of the business cycle because of the increase in
3 subject imports that are weighing on prices and pushing them
4 downward over the period.

5 There were a lot of comparisons to, well, if you
6 found this in Lumber IV and some of those numbers are
7 different than they were then, well then if you can't find
8 injury then you don't find it now.

9 We're in a different phase in the business cycle.
10 Number IV we were at the bottom of the business cycle when
11 that decision was being made. We're at a different point
12 today.

13 People say, well, when the SLA was in effect
14 versus now. Well, since the SLA expired, demand has
15 increased, if you believe the U.S. Census data and calculate
16 U.S. apparent consumption on that, as I said this morning,
17 U.S. demand has increased by more than 3 billion board feet
18 over the last year. That ought to be good news for the
19 domestic industry. It ought to be doing a lot better than
20 it was.

21 But it's not because Canadian imports have
22 accounted for 70 percent of that increased demand. And
23 because it's not, because the U.S. industry is trying to
24 grow and can't, that is present injury today at this phase
25 of the business cycle.

1 It looks different than injury at the bottom of
2 the business cycle, but it is injury. And it is injury not
3 only in terms of what happens from quarter to quarter, which
4 is important and is important to examine, but also in terms
5 of what it means for the ongoing financial performance of
6 the U.S. industry in an industry where the main input takes
7 decades to produce.

8 `People have to, at every moment, take the long
9 term into consideration. And in taking the long term into
10 consideration, you're looking at what is the ability of the
11 industry to make money in the good times so that it can
12 invest and weather the bad times when they inevitably come,
13 which they always do in an industry that is as cyclical with
14 prices that are as volatile as you see in this industry.

15 And that is what is not happening now. That is
16 what has not been happening, especially in this year that
17 ought to have been a banner year for the U.S. domestic
18 industry and has not been since the SLA expired.

19 And so for all of these reasons, we believe that
20 the record supports a finding of material injury and we
21 trust that as all of the evidence is put together and
22 assembled before the Commission, that that is a decision
23 that the Commission will reach.

24 And we want to thank you for your attention, and
25 for all the hard work that has gone into this case so far,

1 and I know that will in the weeks and hopefully months to
2 come.

3 MS. HAINES: Mr. Nicely.

4 CLOSING STATEMENT OF MATT NICELY

5 MR. NICELY: Matt Nicely for the Government of
6 Canada and Joint Respondents.

7 It's never good to be the last person to go in
8 these proceedings. Everybody is in a hurry to go home, or
9 go back to the office, and you just spent the last couple of
10 hours hearing our side. So I recognize that we're in a
11 hurry, so I'll try to be even shorter than the nine minutes
12 that I've been allotted.

13 But I do hope I can have everybody's attention
14 for a few more minutes because the facts already collected
15 here, in our view, in what is always a hastily conducted
16 preliminary investigation--it's only been going now for
17 three weeks--already the facts collected place in question
18 whether there's a reasonable indication of whether the
19 Reasonable Indication Standard is even met.

20 Let me first talk about what we heard this
21 afternoon, or this morning. We heard a lot of anecdotes.
22 We didn't hear a lot of facts this morning. This afternoon,
23 on our side, I think you can see with the presentation we
24 put before you that we put before you a lot of facts. And
25 it is on those facts that the Commission will ultimately

1 make its decision.

2 With regard to facts, and with regard to
3 substitutability, I encourage you to think about
4 substitutability not in a vacuum but with regard to what's
5 been happening in the market.

6 And what's been happening with regard--in the
7 market in the last year, since the SLA expired, is what's
8 most critical for you to consider. What happened with
9 volume and price during a period of unfettered free trade?

10 The Coalition wants you to look at the beginning
11 of the POI to the end of the POI. Because in doing so
12 you're looking at really high prices, aberrationally high
13 prices, and aberrationally high 20-plus percent operating
14 margins, compared with now.

15 In doing so, though, they are asking you to
16 ignore in effect double-digit operating margins that they're
17 getting today. But I encourage you to consider the fact
18 that this industry rarely has seen margins like they saw in
19 2013.

20 The critical point is to consider what's been
21 happening during this period of free trade since the SLA
22 expired. And during that period of time, you had the
23 highest increase in imports from Canada, and yet the
24 industry's performance improved--notwithstanding what
25 anybody says about substitutability.

1 There does appear to be a correlation, but the
2 correlation that appears to exist is a correlation between
3 increased subject-imports and the industry's success, not
4 its demise.

5 ITC case law supports your emphasis on this most
6 recent period, and there isn't really any reason to look at
7 anything else. To the extent that you look at the entire
8 POI, though, I encourage you to consider again the facts.

9 The Canadian import share remained well below 30
10 percent throughout the period before the SLA expired. It's
11 hard to understand how those imports could be the cause of
12 any injury back in 2014 or 2015 if they're not causing
13 injury now when their volume is even greater and their share
14 is even greater.

15 Furthermore, the industry claimed to not be
16 injured by imports when the SLA was in effect, and it simply
17 doesn't make sense to find injury for a period that is now
18 over a year old and where the market was subject to a
19 managed trade system the Coalition itself chose to extend
20 through most of the POI.

21 Meanwhile, again this industry is not in a
22 weakened or vulnerable state that would justify a threat
23 determination. As I said earlier, Weyerhaeuser's CEO said
24 earlier this week the future couldn't be brighter. That
25 doesn't sound like something that somebody who wants import

1 relief would say.

2 U.S. demand is on the rise as the country starts
3 to build houses again. U.S. producers can't meet total
4 demand. We have to have Canadian product in the market.
5 Customers prefer Canadian SPF. Certain customers prefer
6 Canadian SPF for certain uses like new construction wall
7 framing.

8 Yet growth in the Canadian lumber industry is
9 constrained thanks to the Mountain Pine Beetle and the
10 devastating --- that is devastating timber supply and
11 closing mills left and right in the BC interior in
12 particular, where most of Canada's production takes place.

13 It isn't just us that's saying this. It's
14 Potlatch and Weyerhaeuser again, and they're giddy about it,
15 apparently. Meanwhile, the U.S. industry is in no way,
16 shape, or form shutting down. Far from it. Public sources
17 say that the Petition's grim list of closures and
18 curtailments are far less than what they proclaim in the
19 Petition. And those that did occur, were not all related to
20 subject imports.

21 Meanwhile, the U.S. South is thriving with
22 plentiful low-cost timber, as Mr. Sullivan told you this
23 morning.

24 So as for this stick-for-stick concept, it just
25 simply has no merit. They would like you to believe that

1 this is a settled point, but actually the opposite is true.
2 We have talked about it a little bit, but our position is
3 there's a significant difference between what this
4 Commission decided in Lumber III versus what it decided in
5 Lumber IV, and things have changed since then, as Dr. Kirgiz
6 has talked about earlier.

7 A dozen economic studies empirically demonstrate
8 that not all softwood lumber is substitutable. If all wood
9 was substitutable, if it was all fungible, wood for wood, as
10 Mr. Miller said, then the Petitioner and staff presumably
11 could have devised questionnaires that generated some
12 pricing comparisons.

13 They didn't. Even when the Petitioner
14 hand-picked the pricing products, the regions, the day of
15 the month for which the data would be collected, and said
16 that these choices would, quote/unquote "generate matches of
17 U.S. and Canadian products being sold simultaneously in the
18 same markets," these products are species specific. Still,
19 the number of matches are ridiculously low, as low as to be
20 completely meaningless.

21 That says a lot about substitutability, or lack
22 thereof. We heard witnesses today talk about head-to-head
23 competition species to species, but if that's the case why
24 are there no comparisons? And why did they chose Chicago,
25 Atlanta, Phoenix, and Denver? It doesn't make any sense,

1 given what we heard the witnesses say today.

2 We also heard from some witnesses that species
3 doesn't matter at all. Well if that's the case, then why
4 are we looking at pricing products that are species
5 specific?

6 I suggest to you that it may well mean that
7 they're a little bit nervous about what that data might
8 show. It's not going to show you the kind of traditional
9 overwhelming underselling that you get in some cases.

10 Anyway, you had the same situation in Lumber IV.
11 You had a lack of matches. You were forced to address price
12 effects from increased Canadian supply. But this time when
13 you look at the publicly available data, the prices
14 increased when subject imports also increased.

15 Let me say that again. Prices increased when
16 subject imports increased the most during the POI. There
17 are no negative price effects from subject imports in this
18 case.

19 Petitioner is panicked without the SLA. And
20 we've had an entire year without it, and look what's
21 happened? Demand has grown. Prices are rising. U.S.
22 shipments are increasing. And the domestic industry as a
23 whole is doing well financially.

24 And the largest of its members, the largest
25 members, are bullish about the future because of increased

1 demand, because of increased supply. Increased supply of
2 their timber here in the United States. And they're bullish
3 about it because there's a decline that they see in Canada.

4 I submit to you that it is important that 10 of
5 the top U.S. suppliers are not here today. This is like
6 U.S. Steel, Arcelor-Mittal, and Nucor not showing up for a
7 staff conference. They're not here because their data shows
8 something completely different from what you've heard from
9 the U.S. industry today. Thank you.

10 MS. HAINES: Thank you. On behalf of the
11 Commission and the staff, I would like to thank the
12 witnesses who came here today, as well as counsel for
13 helping us gain a better understanding of the product and
14 the conditions of competition in the softwood lumber
15 products industry.

16 Before concluding, please let me mention a few
17 dates to keep in mind. The deadline for submission of
18 corrections to the transcript and for submission of
19 post-conference briefs is Wednesday, December 21st.

20 If briefs contain business proprietary
21 information, a public version is due on Thursday, December
22 22nd. The Commission has tentatively scheduled its vote on
23 these investigations for Friday, January 6th, and it will
24 report its determinations to the Secretary of the Department
25 of Commerce on Monday, January 9th. The Commissioners'

1 opinions will be issued on Tuesday, January 17th.

2 Thank you all for coming. The conference is
3 adjourned.

4 (Whereupon, at 3:09 p.m., Friday, December 16,
5 2016, the conference was adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Softwood Lumber from Canada

INVESTIGATION NOS.: 701-TA-566 and 731-TA-1342

HEARING DATE: 12-16-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 12-16-16

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Duane Rice
Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine
Court Reporter